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# ARCHBOLD'S POOR LAW,

COMPRISING

LAW OF RELIEF, SETTLEMENT AND REMOVAL, TOGETHER WITH THE LAW RELATING TO PAUPER LUNATICS, AND THE POOR RATE.

***15th Edition***

BY

**JAMES BROOKE LITTLE, Esq., B.A., Ch. Ch. Oxon.**

*Of the Inner Temple, Barrister-at-Law.*

Author of "The Law of Burial"; "The Law of Allotments"; "The Agricultural Holdings Act, 1883."

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**N.B.**—Since the publication of the 14th Edition in 1885, more than twenty Acts of Parliament have been passed wholly or in part relating either to the administration of the Poor Law, or to Poor Law Authorities, or to Poor Law Rating.

In the present edition, all changes and developments of the law down to the present time, whether statutory or induced by judicial decisions, have been carefully noted and a considerable portion of the Work re-written to bring it into harmony with the present state of the law, and the requirements of Poor Law officers and legal practitioners.

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# POOR LAW STATUTES

COMPRISING THE

## STATUTES IN FORCE RELATING TO THE POOR;

AND TO

## GUARDIANS, OVERSEERS, AND OTHER POOR LAW AUTHORITIES AND OFFICERS,

FROM

## ELIZABETH TO END OF VICTORIA.

WITH NOTES AND CASES.

*IN THREE VOLUMES.*

BY

JAMES BROOKE LITTLE, B.A.

CH. CH. OXON., BARRISTER-AT-LAW, INNER TEMPLE,
EDITOR OF "ARCHBOLD'S POOR LAW," "LAW OF BURIAL," ETC.

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THE

# STATUTES IN FORCE

RELATING TO

# THE POOR.

## JURISDICTION IN RATING ACT, 1877.

40 & 41 VICT. CHAP. 11.

An Act to make provision with respect to Judicial Proceedings in certain cases relating to Rating. [17th May, 1877.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows (that is to say) :—

Judges may act in certain cases relating to rates.

I. No judge shall be incapable of acting in his judicial office in any proceeding . . . by reason of his being, as one of several ratepayers, or as one of any other class of persons, liable, in common with the others, to contribute to or to be benefited by any rate which may be increased, diminished, or in any way affected by such proceeding.

[Sect. 2. *Certain acts done before the passing of this Act not to be invalidated.* Repealed by the S. L. R. Act, 1883.]

Interpretation.

III. In this Act, if not inconsistent with the context, the following words and expressions have the meanings herein-after respectively assigned to them ; that is to say—

"Judge" means—

As to England, any Judge of Her Majesty's High Court of Justice, or Her Majesty's Court of Appeal ; . . . and

* * * * *

As to the United Kingdom, any Lord of Appeal, or Peer of Parliament, when sitting and voting in the House of Lords, upon the hearing of any matter brought before that House by way of error, or appeal from any other Court.

Sect. 3.

"Rate" means any rate, tax, duty, or assessment, whether public, general, or local, and also any fund formed from the proceeds of any such rate, tax, duty, or assessment, or applicable to the same, or like purposes to which any such rate, tax, duty, or assessment might be applied.

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# LOCAL TAXATION RETURNS ACT, 1877.

## 40 & 41 VICT. CHAP. 66.

An Act to amend the Law with respect to the Annual Returns of Local Taxation in England, and for other purposes relating to such Taxation. [14th August, 1877.]

23 & 24 Vict. c. 51.

WHEREAS by the Local Taxation Returns Act, 1860, and other Acts, local authorities or their officers are required to make annually to one of Her Majesty's principal Secretaries of State, or to the Local Government Board, returns of their receipts and expenditure, and of any rates, taxes, tolls, or dues levied by them, and it is expedient to make further provision respecting such returns:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Date for annual return of local taxation.

I. The annual return required by law to be made of any receipts or expenditure of a local authority, or of any rates, taxes, tolls, or dues, shall be made for the financial year ending on the twenty-fifth day of March, or on such other day as the Local Government Board may from time to time prescribe, upon the application of any particular authority in respect of their receipts and expenditure, or of any rates, taxes, tolls, or dues levied by them, or in respect of the receipts and expenditure and of the rates, taxes, tolls, or dues levied by any class of authorities.

Every such return shall be sent to the Local Government Board and not to one of Her Majesty's principal Secretaries of State, and shall be so sent within one month after the audit of the receipts and expenditure to which the return relates is completed, or if the audit is not completed within six months after the end of the financial year for which the return is to be

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Sect. 1.

Note.

By the District Auditors Act, 1879 (42 Vict. c. 6), s. 3, a return need not be sent to the Local Government Board under this Act if a district auditor has sent a duplicate financial statement as prescribed by that Act.

made, then on the expiration of such six months, or if there is no audit, then within one month after the end of the said financial year. Sect. 1.

For the purpose of any such return the date to which the accounts of any local authority are required by law to be made up, and the date at which such accounts are required by law to be audited, and auditors are required to be elected or appointed, may be altered by the local authority, with the approval of the Local Government Board: Provided that nothing in this section shall prevent any accounts being made up and audited at shorter periods than twelve months, so that one of such shorter periods ends on the last day of the financial year for which the return of such accounts is to be made.

Obligation of clerk of local authority to send return.

II. Every return to which this Act applies shall be made by the clerk of the local authority, or where no clerk is appointed or acting, by the treasurer or other officer keeping the accounts of the receipts and expenditure, rates, taxes, tolls, or dues to which the return relates, and any such clerk, treasurer, or other officer who makes default in making any such return shall be liable to a penalty not exceeding twenty pounds for each offence, to be recovered by action on behalf of Her Majesty in the High Court of Justice.

Definition of "local authority."

III. The expression "local authority" in this Act means any justices, municipal or other corporation, board, guardians, sanitary authority, vestry, commissioners, inspectors, trustees, or other body of persons required by law to make to one of Her Majesty's principal Secretaries of State, or to the Local Government Board, a return of their receipts and expenditure, or of any rates, taxes, tolls, or dues levied by them or under their direction.

First return under Act.

IV. The first return under this Act shall be made for the financial year ending in the year one thousand eight hundred and seventy-eight, and the Local Government Board shall make such provision as may seem to them necessary for any change of the date of the accounts and audit of the accounts of any local authority which may be rendered necessary by the provisions of this Act, so as to cause as little inconvenience as possible to the local authority.

Short title.

V. This Act may be cited as the Local Taxation Returns Act, 1877.

The Act of the session of the twenty-third and twenty-fourth

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Sect. 3. Note.

This Act is repealed by the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 5, and sched. 1, part 2, so far as it relates to the receipts and expenditure of a municipal corporation within that Act.

Sect. 5.

years of the reign of Her present Majesty, chapter fifty-one, intituled "An Act to provide for an Annual Return of Rates, Taxes, Tolls, and Dues levied for local purposes in England," may be cited as the Local Taxation Returns Act, 1860, and that Act and this Act may be cited as the Local Taxation Returns Acts, 1860 and 1877.

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## HOUSE OCCUPIERS DISQUALIFICATION REMOVAL ACT, 1878.

41 & 42 VICT. CHAP. 3.

An Act to relieve certain Occupiers of Dwelling-houses from being disqualified from the right of voting in the Election of Members to serve in Parliament by reason of their underletting such Dwelling-houses for short terms.

[25th February, 1878.]

[Preamble recited that questions had arisen upon the occupation required by sect. 3 of the Representation of the People Act, 1867 (30 & 31 Vict. c. 102).]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

I. This Act shall be cited for all purposes as the House Occupiers Disqualification Removal Act, 1878.

Letting as furnished house for certain periods not to disqualify.

II. Every man shall be entitled to be registered and to vote under the provisions of the said section notwithstanding that during a part of the qualifying period not exceeding four months in the whole he shall, by letting or otherwise, have permitted the qualifying premises to be occupied as a furnished house by some other person.

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## FACTORY AND WORKSHOP ACT, 1878.

41 & 42 VICT. CHAP. 16.

An Act to consolidate and amend the Law relating to Factories and Workshops. [27th May, 1878.]

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Appointment, payment, &c. of inspectors of factories, &c.

LXVII. . . . An inspector under this Act shall not be liable to serve in any parochial or municipal office. . . .

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Sect. 2.

Note.

See also the Electoral Disabilities Removal Act, 1891 (54 & 55 Vict. c. 11), for the removal of the disqualification attaching to being absent on duty for a period not exceeding four months.

# PUBLIC WORKS LOANS ACT, 1878.

## 41 & 42 VICT. CHAP. 18.

An Act to grant Money for the purposes of Loans by the Public Works Loan Commissioners and by the Commissioners of Public Works in Ireland, and to authorize the former Commissioners to compound and cancel certain loans and interest, and to amend the Public Works Loans Act, 1875. [27th May, 1878.]

* * * * *

[I.] This Act may be cited as the Public Works Loans Act, 1878. Short title.

### PART I.

*Public Works Loan Commissioners.*

* * * * *

IV. . . . Where upon any examination made in pursuance of section thirty-six of the Public Works Loans Act, 1875, with reference to a loan advanced by the Public Works Loan Commissioners for any purpose on the security of a rate, it appears to the Local Government Board that any sum, being the whole or part of the money raised by the loan, has not been applied for the said purpose, the Local Government Board may order that sum to be, within the time named in the order, applied either for the said purpose or towards the repayment to the Public Works Loan Commissioners of the principal of the loan, or partly in one of such ways and partly in the other, and further, if it appears to them that the sum, or any part thereof, has been applied for some purpose other than that for which it was advanced, may by the same or any other order direct a sum equal to the amount so misapplied to be raised within the time and out of the fund or rate named in the order and to be applied as directed by the above-mentioned order.

Amendment of 38 & 39 Vict. c. 89, s. 36, as to examination into proper application of loan advanced on rates.

38 & 39 Vict. c. 89.

An order made by the Local Government Board in pursuance of this section may be enforced by writ of *mandamus*.

* * * * *

VI. So much of any Act as requires the Public Works Loan Commissioners to take in respect of any loan advanced by them under that Act in preference to any other securities, all or such one or more of the securities issuable under the Local Loans Act, 1875, as they may prefer, is hereby repealed, and the security for any such loan may be given and taken under and pursuant to the Public Works Loans Act, 1875.

Repeal of obligation of the Public Works Loan Commissioners to take securities under 38 & 39 Vict. c. 83.

38 & 39 Vict. c. 89.

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This section is amended by the Public Works Loans Act, 1881 (44 & 45 Vict. c. 38), s. 9.

Sect. 4.

Note.

# PARLIAMENTARY AND MUNICIPAL REGISTRATION ACT, 1878.

41 & 42 VICT. CHAP. 26.

An Act to amend the Law relating to the Registration of Voters in Parliamentary Boroughs and the Enrolment of Burgesses in Municipal Boroughs, and relating to certain rights of voting and proceedings before and appeals from Revising Barristers. [22nd July, 1878.]

[This Act has no direct bearing on the poor law, but is included here on account of its connection with the formation of the register of parochial electors, and with certain duties of overseers in regard to making out the lists of electors.]

* * * * *

Short titles.

[I.] This Act may be cited as the Parliamentary and Municipal Registration Act, 1878.

The Acts referred to in this Act by short titles may be cited for all purposes by those titles respectively.

Extent of Act.

II. This Act shall not extend to Scotland or Ireland.

[Sect. 3. *Commencement of Act:* Repealed by the S. L. R. Act, 1894.]

Definitions.

IV. In this Act—

The term "Reform Act, 1832," means the Act of the session of the second and third years of the reign of King William the Fourth, chapter forty-five, "to amend the Representation of the People in England and Wales:"

5 & 6 Will. 4, c. 76.

The term "Municipal Corporation Acts" means "*The Municipal Corporation Act, 1835*," and the Acts amending the same:

[Read now "The Municipal Corporation Act, 1882." (See 45 & 46 Vict. c. 50, s. 242.)]

40 & 41 Vict. c. 69.

The term "Parliamentary Registration Act, 1843," means the Act of the session of the sixth and seventh years of the reign of Her present Majesty, chapter eighteen, "to amend the law for the registration of persons entitled to vote, and to define certain rights of voting and to regulate certain proceedings in the election of members to serve in Parliament for England and Wales:"

The term "Parliamentary Registration Acts" means the Parliamentary Registration Act, 1843, and any enactment amending the same or otherwise relating to the registration of Parliamentary electors:

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The term "Parliamentary borough" means any borough, city, county of a city, county of a town, place, or combination of places returning a member or members to serve in Parliament, and not being a county at large, or riding, part, or division of a county at large:

The term "municipal borough" means any place for the time being subject to the Municipal Corporation Acts:

The term "Parliamentary voter" means a person entitled to be registered as a voter and when registered to vote at the election of a member or members to serve in Parliament for a Parliamentary borough:

The term "burgess" has the same meaning as in the Municipal Corporation Acts:

The term "parish" means a place for which a separate poor rate is or can be made, or for which a separate overseer is or can be appointed:

Other terms used in this Act have the same meaning as in the Parliamentary Registration Acts.

Explanation of terms, "House," &c. 2 & 3 Will. 4, c. 45, s. 27.

V. In and for the purposes of the Reform Act, 1832, and the Municipal Corporation Acts, the terms "house, warehouse, counting-house, shop, or other building," shall include any part of a house where that part is separately occupied for the purpose of any trade, business, or profession; and any such part may for the purpose of describing the qualification be described as "office," "chambers," "studio," or any like term applicable to the case.

30 & 31 Vict. c. 102. "Dwelling-house." "Lodgings."

In and for the purposes of the Representation of the People Act, 1867, the term "dwelling-house" shall include any part of a house where that part is separately occupied as a dwelling, and the term "lodgings" shall include any apartments or place of residence, whether furnished or unfurnished, in a dwelling-house.

[See sects. 3 and 4 of 30 & 31 Vict. c. 102.]

Separate occupation of part notwithstanding joint occupation of other part.

For the purposes of any of the Acts referred to in this section, where an occupier is entitled to the sole and exclusive use of any part of a house, that part shall not be deemed to be occupied otherwise than separately by reason only that the occupier is entitled to the joint use of some other part.

30 & 31 Vict. c. 102, s. 61.

The interpretation contained in this section of "dwelling-house" shall be in substitution for the interpretation thereof contained in section sixty-one of the Representation of the People Act, 1867, but not so as to affect any of the other provisions of the said Act relating to rating.

Additional lodgings.

VI.—(1) Lodgings occupied by a person in any year or two successive years shall not be deemed to be different lodgings by reason only that in that year or in either of those years he

Sect. 6.

has occupied some other rooms or place in addition to his original lodgings.

Successive lodgings in the same house.

(2) For the purpose of qualifying a lodger to vote, the occupation in immediate succession of different lodgings of the requisite value in the same house shall have the same effect as continued occupation of the same lodgings.

Joint occupation of lodgings.

(3) Where lodgings are jointly occupied by more than one lodger, and the clear value of the lodgings if let unfurnished is of an amount which when divided by the number of the lodgers gives a sum of not less than ten pounds for each lodger, then each lodger, if otherwise qualified and subject to the conditions of the Representation of the People Act, 1867, shall be entitled to be registered, and when registered to vote as a lodger, provided that not more than two persons being such joint lodgers shall be entitled to be registered in respect of such lodgings.

30 & 31 Vict. c. 102.

Period of qualification.

VII. In every Parliamentary borough and in every municipal borough every period of qualification for Parliamentary voters and burgesses respectively which is now computed by reference to the last day of July, shall, instead of being so computed, be computed by reference to the fifteenth day of July.

The term "period of qualification" in this section shall include any period of occupation, residence, possession, receipt of rents and profits, and non-receipt of parochial relief or other alms.

[Sect. 8. *Forms relating to registration in Parliamentary boroughs and burgess lists in certain municipal boroughs:* Repealed by the S. L. R. Act, 1894.]

Publication of notices and lists in post and telegraph offices, &c.

IX. In every Parliamentary borough and in every municipal borough the whole or part of the area whereof is co-extensive with or included in the area of a Parliamentary borough, any notice or list which is by the Parliamentary Registration Acts or this Act directed to be published by overseers shall be published by them not only in the manner directed by those Acts, but also by being affixed and kept in some public and conspicuous position in or near every post office and telegraph

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Note.

For the manner in which overseers are directed to publish lists, see the Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 23.

This section is applied to the registration of occupation and ownership voters in counties by the Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1, subject to the provision that it shall apply only to the publication of notices within parishes situate wholly or partly in an urban sanitary district and not in a Parliamentary borough; and (by the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4 (2) (*d*)) shall not apply to any parish which is not wholly situate in an urban district.

office occupied by or on behalf of Her Majesty's Postmaster-General, and in or near every public or municipal or parochial office within the parish to which the list relates. Sect. 9.

All the provisions of those Acts with respect to the publication of notices or lists shall apply to the publication to be made under this section.

X. Where the whole or part of the area of a municipal borough is co-extensive with or included in the area of a Parliamentary borough, section eleven of the Parliamentary Registration Act, 1843, and section twenty-eight of the Representation of the People Act, 1867 (which relate to the notices to be published and given with respect to rates and taxes in arrear), shall, as amended by this Act, extend with the necessary modifications to the rates of which the payment is required as a condition of enrolment on the burgess roll, and all the provisions of those sections as so amended shall apply to the overseers of parishes situate wholly or partly in a municipal borough accordingly. Notice of rates in arrear. 6 & 7 Vict. c. 18, s. 11. 30 & 31 Vict. c. 102, s. 28.

Any notice required to be given under this section shall be deemed to be duly given if delivered to the occupier or left at his last or usual place of abode, or with some person on the premises in respect of which the rate is payable.

In case no such person can be found, then the notice required to be given under this section or under section twenty-eight of the Representation of the People Act, 1867, shall be deemed to be duly given if affixed upon some conspicuous part of the premises. 30 & 31 Vict. c. 102, s. 28.

Any overseer who with intent to keep an occupier off the list or register of voters for a Parliamentary borough, or off the burgess lists or burgess roll of a municipal borough, shall wilfully withhold any notice required by this section to be given to such occupier, shall be deemed guilty of a breach of duty in the execution of this Act.

Section twenty-nine of the Representation of the People Act, 1867, shall extend and be applicable to every parish situate wholly or partly within a municipal borough whose burgess lists are revised under this Act. 30 & 31 Vict. c. 102, s. 29.

XI. Every registrar of births and deaths whose sub-district includes the whole or part of any Parliamentary borough or Registrars to furnish returns of deaths to overseers.

By the Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 51, revising barristers have power to fine overseers for neglect of duty. Sect. 10. Note.

For the "fifteenth" day of September in this section, read now "eighth" day of September (County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 6). Sect. 11. Note.

The fees herein mentioned are twopence for each return, and a further fee of twopence for each death entered in such return.

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any municipal borough the whole or part of the area whereof is co-extensive with or included in the area of a Parliamentary borough, shall transmit by post or otherwise to the overseers of every parish the whole or any part of which is included in the Parliamentary borough or municipal borough and also in his sub-district, a return certified under his hand to be a true return of the names, ages, and residences of all male persons of full age dying within that parish or part, and also when and as required by those overseers of the names, ages, and residences of all women of full age dying within that parish or part.

The returns shall state the names of all such persons in full (where the names are known) and the dates of their deaths, and the names and residences of the persons by whom information of the deaths was given to the registrar.

The returns shall be made four times a year; that is to say,

On or before the seventh day of April for the three months ending with the preceding thirty-first day of March;

On or before the twenty-second day of July for the period beginning with the preceding first day of April and ending with the fifteenth day of July;

On or before the *fifteenth* day of September, or at such other time before the completion of the revision of the lists of the Parliamentary borough or municipal borough to the area of which the return relates as the barrister revising the same shall appoint in that behalf for the period beginning with the preceding sixteenth day of July, and ending with the time when such return is made, or as near thereto as practicable;

And on or before the seventh day of January for the period beginning with the preceding *fifteenth* day of September or from the time for which the last preceding return was made, and ending with the thirty-first day of December:

The registrar making any such return shall be entitled to fees at the rate specified in the twenty-eighth section of the Births and Deaths Registration Act, 1874, in respect of the returns therein mentioned, and such fees shall be paid by the overseers as part of the expenses of carrying into effect the provisions of this Act with respect to the lists of Parliamentary voters and burgess lists.

37 & 38 Vict. c. 88, s. 28.

The overseers shall omit from any list made by them the name of any person who appears from such returns to be dead, and shall allow any person who is registered as a Parliamentary voter of the Parliamentary borough or enrolled as a burgess of the municipal borough to which the returns relate to inspect

any such returns in their custody at all reasonable times free of charge. Sect. 11.

List of persons disqualified by parochial relief.

XII. The overseers of every parish situate wholly or partly either in a Parliamentary borough or in a municipal borough the whole or part of the area whereof is co-extensive with or included in the area of a Parliamentary borough, shall ascertain from the relieving officer acting for that parish the names of all persons who are disqualified for being inserted in the lists of Parliamentary voters or burgess lists for that parish by reason of having received parochial relief, and the relieving officer, upon application from the overseers, shall produce to them at such place within the parish, and at such time as is required by them, the books in his possession containing the names of those persons.

Inspection of rate-books.

XIII. In every parish situate wholly or partly either in a Parliamentary borough or in a municipal borough the whole or part of the area whereof is co-extensive with or included in the area of a Parliamentary borough, the books containing the poor rates made for the parish within the previous two years shall at all reasonable times be open, free of charge, to the inspection of any person who is registered as a Parliamentary voter for the Parliamentary borough, or enrolled as a burgess of the municipal borough, and any such voter or burgess may make any copy thereof or take any extract therefrom.

Explanation of 32 & 33 Vict. c. 41. s. 19, as to entering occupier's name in rate-book.

XIV. [*Preamble recited sect.* 19 *of the Poor Rate Assessment and Collection Act*, 1869: Repealed by the S. L. R. Act, 1894.] The recited enactment shall not be deemed to apply exclusively to cases where an agreement has been made under section three of the same Act, or when an order has been made under section four of the same Act, but shall be of general application.

Preparation of lists of Parliamentary voters and burgess lists together in certain cases.

XV. Where the whole or part of the area of a municipal borough is co-extensive with or included in the area of a Parliamentary borough, the lists of Parliamentary voters and the burgess lists shall so far as practicable be made out and revised together.

In every such case the overseers of every parish situate wholly or partly either in the Parliamentary borough or in the

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Sect. 12. Note.

For the disqualification by reason of having received parochial relief, see the Reform Act, 1832 (2 & 3 Will. 4, c. 45), s. 36. Provision is made by the Registration Act, 1885 (48 & 49 Vict. c. 15), s. 16, for voters obtaining information as to the persons who are disqualified by receipt of parochial relief.

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Sect. 13. Note.

There is a similar provision to that contained in this section in the Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), s. 16.

Sect. 15.

municipal borough shall, on or before the last day of July in every year make out a list of all persons entitled under any right conferred by the Reform Act, 1832, or by section three of the Representation of the People Act, 1867, to be registered as voters for the Parliamentary borough in respect of the occupation of property situate wholly or partly within that parish, or entitled to be enrolled as burgesses of the municipal borough in respect of the occupation of any property so situate.

2 & 3 Will. 4, c. 45.
30 & 31 Vict. c. 102, s. 3.

With respect to every list so made out the following provisions shall have effect:

(1) The lists shall be in substitution for the lists of persons so entitled, which are required to be made out under the Parliamentary Registration Acts and the Municipal Corporation Acts:

(2) Where the parish is situate wholly or partly both in the Parliamentary borough and in the municipal borough, the list for the parish shall be made out in three divisions:

Division one shall comprise the names of the persons entitled both to be registered as Parliamentary voters under a right conferred as aforesaid and to be enrolled as burgesses;

Division two shall comprise the names of the persons entitled to be registered as Parliamentary voters under a right conferred as aforesaid, but not to be enrolled as burgesses;

Division three shall comprise the names of the persons entitled to be enrolled as burgesses, but not to be registered as Parliamentary voters under a right conferred as aforesaid:

(3) Each list shall state the surname and other name or names of every person whose name is inserted therein, his place of abode, the nature of his qualification, and the situation and description of the property in respect of which he is entitled:

(4) Each list shall be signed and otherwise dealt with in manner directed by the Parliamentary Registration Acts with respect to the alphabetical lists mentioned in section thirteen of the Parliamentary Registration Act, 1843:

6 & 7 Vict. c. 18. s. 13.

(5) Where no part of the parish is situate within the municipal borough, the list for the parish shall be deemed to be a list of voters for the Parliamentary borough:

(6) Where no part of the parish is situate within the Parliamentary borough, the list for the parish shall be deemed to be a burgess list for the municipal borough:

(7) Where the list is made out in divisions, divisions one and two shall be deemed to be lists of voters for the

Parliamentary borough, and divisions one and three shall be deemed to be burgess lists for the municipal borough: Sect. 15.

(8) The lists, and if the lists are made out in divisions, each division thereof, shall, if and so far as the local authority from time to time direct, according to convenience for use, be framed in parts for polling districts or wards; and where the polling districts and wards are not conterminous, in such manner that the parts may be conveniently compiled or put together to serve either as lists for polling districts or as ward lists.

Freemen's and other rights. 2 & 3 Will. 4, c. 45. 30 & 31 Vict. c. 102, s. 3.

XVI. In the case of any Parliamentary borough in which any persons are entitled to be registered as freemen, or under any right other than a right conferred by the Reform Act, 1832, or the third section of the Representation of the People Act, 1867, the registration of such persons shall be carried out in the manner directed by the Parliamentary Registration Acts, as modified by this Act.

Provision where several municipal boroughs included in one Parliamentary borough.

XVII. In the case of a Parliamentary borough which includes in whole or in part more municipal boroughs than one, each such municipal borough shall, for the purposes of this Act, be dealt with separately and as if each were the only municipal borough included in whole or in part in such Parliamentary borough, and if any parish is partly in one and partly in another or others of such municipal boroughs, so much thereof as is in any one of such municipal boroughs shall, for the purposes of this Act, be dealt with as a separate parish.

The town clerk of each such municipal borough shall, so far as regards the area of such municipal borough, issue the precepts and perform the other duties to be performed by the town clerk under and shall be the town clerk for the purposes of the Parliamentary Registration Acts and this Act.

Application of Parliamentary Registration Acts to burgess lists made out under this Act.

XVIII. The Municipal Corporation Acts shall not, as to anything prior to the completion of the revision of the burgess lists, apply to any burgess list made out under this Act, and instead thereof the Parliamentary Registration Acts, as modified by this Act, shall, up to the completion of the revision of the burgess lists, apply to every such burgess list, as if it were a list of Parliamentary voters made out under those Acts, and

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Sect. 16. Note.

By the Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1 (3) (*d*), this section is not to apply to Parliamentary counties except so far as relates to the registration of persons entitled to vote in respect of a lodger qualification.

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Sect. 18. Note.

With regard to the allusions to the Municipal Corporations Acts in this section, see 45 & 46 Vict. c. 50, ss. 44, 45.

Sect. 18.

as if the municipal borough to which such burgess lists relate were a Parliamentary borough: Provided as follows:

(1) Nothing in this Act shall authorize a person entered on a burgess list, not being also entered on a list of Parliamentary voters, to make any objection in respect of a list of Parliamentary voters, or authorize any person entered on a list of Parliamentary voters, not being also entered on a burgess list, to make any objection in respect of a burgess list;

(2) The last day for revising a burgess list made out under this Act shall be the twelfth day of October; and

(3) The burgess lists when revised shall be copied for the burgess roll in manner directed by the Municipal Corporation Acts.

Lists of persons qualified to be aldermen or councillors, but not to be burgesses.

XIX. Where the whole or part of the area of a municipal borough is co-extensive with or included in the area of a Parliamentary borough, the separate lists of the persons entitled to be elected councillors or aldermen of the municipal borough, though not entitled to be on the burgess roll, shall be made out at the same time and in the same manner as the burgess lists, and all the provisions of this Act with respect to the burgess lists shall apply to those separate lists.

[Sect. 20. *Abolition of assessors in certain municipal boroughs:* Repealed by the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 5, and sched. 1.]

Lists and registers may be arranged according to streets.

XXI. If and so far as the local authority so direct, the lists of Parliamentary voters and registers of Parliamentary voters in Parliamentary boroughs, and the burgess lists and burgess rolls in municipal boroughs, and the lists of claimants and persons objected to in Parliamentary boroughs and municipal boroughs respectively, or any of those documents, shall, so far as they relate to persons qualified in respect of the ownership or occupation of property (including persons qualified in respect of lodgings), be arranged in the same order in which the qualifying premises appear in the rate-book for the parish in which

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Sect. 19.

Note.

See now the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 49.

Sect. 21.

Note.

As to the authority having power to divide a Parliamentary borough into polling districts, see the Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 34, and the Parliamentary Electors Registration Act, 1868 (31 & 32 Vict. c. 58), s. 18.

By the Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1 (3) (*e*), this section is not to apply to Parliamentary counties, nor by the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4 (2) (*e*), is it to apply to a parish not within a Parliamentary borough.

Sect. 21.

those premises are situate, or as nearly thereto as will cause those lists, registers, and rolls to record the qualifying premises in successive order in the street or other place in which they are situate, subject in the case of a municipal borough divided into wards to the division of the burgess roll into ward lists. The local authority in this Act means as regards a Parliamentary borough the authority having power to divide the Parliamentary borough into polling districts, and as regards a municipal borough the council of the municipal borough.

Claim by lodger retaining same lodgings in successive years.

XXII. Where a person is entered in respect of lodgings on the register of voters for the time being in force, and desires to be entered on the next register in respect of the same lodgings, he may claim to be so entered by sending notice of his claim to the overseers of the parish in which his lodgings are situate on or before the twenty-fifth day of July.

The overseers shall on or before the last day of July make out a list of all persons so claiming, and if they have reasonable cause to believe that any person whose name is entered on the list is not entitled to be registered or is dead, shall add in the margin of the list opposite his name the words "objected to" or "dead," as the case may be.

The lists so made out shall be signed, published, and otherwise dealt with in the same manner as the alphabetical lists mentioned in section thirteen of the Parliamentary Registration Act, 1843, and shall for the purposes of the Parliamentary Registration Acts be deemed to be lists of voters, and the provisions of the Parliamentary Registration Acts as to objections shall apply to such lists, and the persons against whose names the overseers have so written the words "objected to" or "dead" shall be deemed to be duly objected to.

6 & 7 Vict. c. 18.

Declaration of lodger to be *primâ facie* evidence.

XXIII. In the case of a person claiming to vote as a lodger, the declaration annexed to his notice of claim shall, for the purposes of revision, be *primâ facie* evidence of his qualification.

Declaration as to misdescription.

XXIV. Any person who is entered on any list of voters for a Parliamentary borough or any burgess list, subject to revision under this Act, for a municipal borough, and whose name or place of abode or the nature of whose qualification or the name or situation of whose qualifying property is not correctly stated

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Sect. 22. Note.

For provisions as to objections, see the Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), ss. 7, 17; the County Voters Registration Act, 1865 (28 & 29 Vict. c. 36), ss. 7, 8; and sect. 26, *infra*.

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Sect. 24. Note.

For the "twelfth" and "fifteenth" days of September, read now "fifth" and "eighth" respectively (County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 6).

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in such list, or in respect of whom there is any other error or omission in the said list, may, whether he has received a notice of objection or not, if he thinks fit, make and subscribe a declaration . . . before any justice of the peace or any commissioner or other person authorized to administer oaths in the Supreme Court of Judicature.

The declaration shall be duly dated and shall on or before the *twelfth* day of September be sent to the town clerk, who forthwith shall indorse on the declaration a memorandum signed or initialed by him, stating the date when he received it, and naming the declarant, and the list to which the declaration refers, and shall deliver all such declarations to the revising barrister at his first court.

If the declaration is sent as aforesaid in due time (of which the said indorsement shall be *primâ facie* proof), the revising barrister shall receive the declaration as evidence of the facts declared to, and that without proof of the signature of the declarant, or of the justice, commissioner, or person before whom the declaration purports to have been subscribed, unless he has good reason to doubt the genuineness of any signature thereto.

The declarations shall be open free of charge to public inspection at the office of the said town clerk, at any time between the hours of ten of the clock in the forenoon and four of the clock in the afternoon of any day except Sunday, before the *fifteenth* day of September, and he shall deliver copies thereof on application and payment of the price of fourpence per folio of seventy-two words.

Penalty for false declaration.

XXV. If any person falsely or fraudulently signs any such declaration as last aforesaid, or any declaration either as claimant or witness in respect of a claim to vote as a lodger in the name of any other person, whether that person is living or dead, or in a fictitious name, or sends as genuine any false or falsified declaration knowing the same to be false or falsified, or knowingly and wilfully makes any false statement of fact in any declaration of the nature aforesaid, he shall be guilty of a misdemeanour and punishable by fine or by imprisonment for a term not exceeding one year, and the revising barrister shall have power to impound the declaration.

Notice of objection to state specific grounds of objection, &c.

6 & 7 Vict. c. 18, ss. 17, 20.

28 & 29 Vict. c. 36, ss. 7, 8.

XXVI. The notice required by the seventeenth and twentieth sections of the Parliamentary Registration Act, 1843, to be given to persons objected to in boroughs for the purposes of the revision of the lists of voters for a Parliamentary borough and the burgess lists for a municipal borough whose burgess lists are revised under this Act, shall state specifically the ground or grounds of objection, and sections seven and eight of the County Voters Registration Act, 1865, shall extend to such objections.

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Revision of lists of voters.

XXVII. For the purposes of the revision of the lists of voters for a Parliamentary borough, and the burgess lists for municipal borough whose burgess lists are revised under this Act—

Objections may be withdrawn.

(1) An objection may be withdrawn by a notice to that effect in writing, signed by the objector, and given to the person objected to and to the town clerk not less than seven days before the day which shall be appointed for the holding of the first court of revision of the lists to which the objection relates:

Reviver of objections on death of objector.

(2) Any objection by a qualified objector may, after his death, be revived by any other person qualified to have made the objection originally by a notice to that effect in writing signed by him, and given to the person objected to and to the town clerk at or before the time of the revision of the entry to which the objection relates:

A person reviving an objection shall be deemed to have made the objection originally, and he shall be responsible in respect thereof, and the proceedings thereon shall be continued accordingly:

Costs of objections.

(3) Where objection is made otherwise than by an overseer to any person whose name appears on a list of voters or burgesses and the name is retained on the list, the revising barrister shall, unless he is of opinion that the objection was reasonably made either because of a defect or error in the entry to which the objection relates, or because of a difficulty in verifying or identifying the particulars comprised in such entry, or unless the objection is duly withdrawn, or unless for some other special reason he otherwise determines, order costs not exceeding forty shillings to be paid by the objector to the person objected to.

Duties and powers of revising barrister.

XXVIII. A revising barrister shall, with respect to the lists of voters for a Parliamentary borough and the burgess lists for

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Note.

By the Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1 (3) (*f*), any notice as to objections is in a Parliamentary county to be given to the overseers, and not to the clerk of the peace. (See also the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4 (2) (*b*).)

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Sect. 28.

Note.

Subject to certain modifications this section is applied to the registration of voters in counties by the Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1.

By sect. 4 of the Registration Act, 1885 (48 & 49 Vict. c. 15), sub-sect. (14) of this section is not to apply to Parliamentary counties, and sect. 4 (9) of that Act is substituted for it. As to the entry to be retained in pursuance of sub-sect. (14), see sect. 5 of that Act.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 44 (6),

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a municipal borough which he is appointed to revise, perform the duties and have the powers following :

(1) He shall correct any mistake which is proved to him to have been made in any list :

(2) He may correct any mistake which is proved to him to have been made in any claim or notice of objection :

(3) He shall expunge the name of every person, whether objected to or not, whose qualification as stated in any list is insufficient in law to entitle such person to be included therein :

(4) He shall expunge the name of every person who, whether objected to or not, is proved to the revising barrister to be dead :

(5) Where an entry in any list and an entry in a return made to the overseers of deaths appear to relate to the same person, the revising barrister shall inquire whether such entries relate to the same person, and on proof being made to him that the entries relate to the same person shall expunge the entry in the list therefrom :

(6) The revising barrister shall expunge the name of every person, whether objected to or not, whose name or place of abode, or the nature of whose qualification, or the name or situation of whose qualifying property if the qualification is in respect of property, or any other particulars respecting whom by law required to be stated in the list, is or are either wholly omitted or in the judgment of the revising barrister insufficiently described for the purpose of being identified, unless the matter or matters so omitted or insufficiently described be supplied to the satisfaction of the revising barrister before he shall have completed the revision of the list in which the omission or insufficient description occurs, and in case such matter or matters shall be so supplied, he shall then and there insert the same in such list :

(7) He shall expunge the name of every person, whether objected to or not, where it is proved to the revising barrister that such person was, on the last day of July then next preceding, incapacitated by any law or statute from voting at an election for the Parliamentary borough

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Sect. 28. Note.

where a revising barrister would have placed a note against the name of a person under sub-sect. (14) of this Act, as amended by the Registration Act, 1885, he is now to place a mark against the name, which shall be printed, as the case requires, either in division three of the local government list of electors, or in a separate list of parochial electors.

Sect. 40 of the Parliamentary Registration Act, 1843 (6 & 7 Vict. c. 18), is now repealed by the Registration Act, 1885 (48 & 49 Vict. c. 15), s. 17.

or an election for the municipal borough, as the case may be, to which the list relates :

(8) Before expunging from a list the name of any person not objected to, the revising barrister shall cause such notice, if any, as shall appear to him necessary or proper under the circumstances of the proposal to expunge the name, to be given to or left at the usual or last known place of abode of such person :

(9) Subject as herein and otherwise by law provided, the revising barrister shall retain the name of every person not objected to, and also of every person objected to, unless the objector appears by himself or by some person on his behalf in support of his objection :

(10) If the objector so appears the revising barrister shall require him, unless he is an overseer, to prove that he gave the notice or notices of objection required by law to be given by him, and to give *primâ facie* proof of the ground of objection, and for that purpose may himself examine and allow the objector to examine the overseers or any other person on oath touching the alleged ground of objection, and unless such proof is given to his satisfaction shall, subject as herein and otherwise by law provided, retain the name of the person objected to :

An objection made under this Act by overseers shall be deemed to cast upon the person objected to the burden of proving his right to be on the list :

The *primâ facie* proof shall be deemed to be given by the objector if it is shown to the satisfaction of the revising barrister by evidence, repute, or otherwise, that there is reasonable ground for believing that the objection is well founded, and that by reason of the person objected to not being present for examination, or for some other reason, the objector is prevented from discovering or proving the truth respecting the entry objected to :

(11) If such proof is given by the objector as herein prescribed, or if the objection is by overseers, then unless the person objected to appears by himself or by some person on his behalf, and proves that he was entitled on the last day of July then next preceding to have his name inserted in the list in respect of the qualification described in such list, the revising barrister shall expunge the name of the person objected to :

(12) Where the matter stated in a list or claim, or proved to the revising barrister in relation to any alleged right to be on any list, is in the judgment of the revising barrister insufficient in law to constitute a qualification of the nature or description stated or claimed, but sufficient in law to constitute a qualification of some

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other nature or description, the revising barrister, if the name is entered in a list for which such true qualification in law is appropriate, shall correct such entry by inserting such qualification accordingly, and in any other case shall insert the name with such qualification in the appropriate list, and shall expunge it from the other list, if any, in which it is entered.

(13) Except as herein provided, and whether any person is objected to or not, no evidence shall be given of any other qualification than that which is described in the list or claim, as the case may be, nor shall the revising barrister be at liberty to change the description of the qualification as it appears in the list except for the purpose of more clearly and accurately defining the same :

(14) Where the name of any person appears to be entered more than once as a Parliamentary voter on the lists of voters for the same Parliamentary borough, or more than once as a burgess on the burgess lists for the same municipal borough, the revising barrister shall inquire whether such entries relate to the same person, and on proof being made to him that such entries relate to the same person, shall retain one of the entries for voting, and place against the other or others a note to the effect that the person is not entitled to vote in respect of the qualification therein contained for the Parliamentary borough or for the municipal borough, as the case may be, he being on the list for voting in respect of another qualification :

Any such person may, by notice in writing delivered to the revising barrister at the opening of his first revision court, select the entry to be retained for voting, and in making such selection may select one entry to be retained for voting for the Parliamentary borough, and another entry to be retained for voting as a burgess for the municipal borough, but if he does not make any selection the entry to be so retained shall be selected by the revising barrister, except in the case of freemen, in which case the entry to be retained by the revising barrister for voting shall be that on the freemen's list :

If any question on appeal, or otherwise, arise as to the validity of the qualification for which the Parliamentary voter or burgess is on the list for voting, recourse may be had for supporting the right of the voter or burgess to be on the Parliamentary register or burgess roll for voting to any other qualification of such person appearing on the register or burgess roll :

Provided always, that in the case of a municipal borough divided into wards a vote given in or the

right to vote in one ward shall not be supported by a qualification appearing on the burgess roll for some other ward: Sect. 28.

(15) Where a list is made out in divisions the revising barrister shall place the name of any person in the division in which it should appear according to the result of the revision, regard being had to the title of the person to be on the list both as a Parliamentary voter and as a burgess, or only in one of those capacities, and shall expunge the name from the other division (if any) in which it appears.

This section shall, as regards every Parliamentary borough and every municipal borough whose burgess lists are revised under this Act, take effect instead of section forty of the Parliamentary Registration Act, 1843. 6 & 7 Vict. c. 18, s. 40.

XXIX. The provisions of the fifty-first section of the Parliamentary Registration Act, 1843, relating to the power of the revising barrister to fine overseers for neglect of duty, shall extend to every wilful refusal, neglect, or breach of duty on the part of overseers in the execution of this Act. Power to fine overseers for neglect of duty. 6 & 7 Vict. c. 18, s. 51.

XXX. Where the whole or part of the area of a municipal borough is co-extensive with or included in the area of a Parliamentary borough, the expenses properly incurred by the town clerk (including in his expenses the matters mentioned in section thirty-one of the Representation of the People Act, 1867), and the expenses properly incurred by the overseers in carrying into effect the provisions of this Act with respect to the lists of Parliamentary voters and burgess lists, and all monies received in respect of any of those lists, or in respect of any fine imposed by the revising barrister on the revision of the lists, shall be respectively paid and applied as follows: Expenses and receipts. 30 & 31 Vict. c. 102, s. 31.

(1) If the area of the Parliamentary borough and the area of the municipal borough are co-extensive, one half of the expenses shall be defrayed in the manner provided by the Parliamentary Registration Acts as expenses incurred thereunder, and the other half shall be defrayed out of the borough fund, and one half of the monies received as aforesaid shall be applied in the

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By the Registration Act, 1885 (48 & 49 Vict. c. 15), s. 1 (2), this section is applied to the registration of ownership voters in Parliamentary counties. Sect. 29. Note.

The latter part of this section relating to the remuneration of revising barristers is repealed by the S. L. R. Act, 1894, and other provision is made thereon by the Registration of Electors Act, 1891 (54 & 55 Vict. c. 18). Sect. 30. Note.

Sect. 30.

manner directed in those Acts, and the other half shall be paid to the borough fund:

(2) In all other cases the expenses and receipts in respect of the area common to the Parliamentary borough and to a municipal borough shall, as to one half thereof, be defrayed and applied as expenses and receipts under the Parliamentary Registration Acts, and shall as to the other half thereof be defrayed out of and paid to the borough fund of such municipal borough:

And the expenses and receipts in respect of an area exclusively Parliamentary shall be defrayed and applied as expenses and receipts under the Parliamentary Registration Acts:

And the expenses and receipts of an area exclusively municipal shall be defrayed out of and paid to the borough fund of the municipal borough comprising such area:

Any expenses and receipts incurred or arising in respect of more than one such area shall be apportioned between the several areas in respect of which they are incurred or arise, in the proportion as nearly as may be in which the same are incurred and arise in respect of the several areas, regard being had to the number of Parliamentary voters or burgesses in each area, or any other circumstances occasioning the expenses or giving rise to the receipts:

The revising barrister shall, as part of the business of the revision, determine, if necessary, in respect of what area or areas any expenses or receipts are incurred or arise, and how much thereof is attributable to each area.

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Delivery and custody of revised lists.

XXXI. The lists, if made out in divisions under this Act, shall when revised be delivered to the town clerk to whom in respect of the area to which the lists relate revised Parliamentary lists ought to be delivered.

The revising barrister shall as part of the business of the revision, at the request of the town clerk of any municipal borough the whole or part of the area of which is co-extensive with or included in the area of a Parliamentary borough, sign and deliver to him a duplicate of the whole or part of any revised list made out in divisions and relating to that municipal borough.

Every such duplicate shall be prepared by the town clerk at whose request it is so signed, and shall be kept by him for use for municipal purposes.

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Sect. 31. Note.

By the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 45 (7), a duplicate is to have the same effect as the original.

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XXXII. The register made up from revised lists under the Parliamentary Registration Acts and this Act of voters for the Parliamentary borough shall come into operation on the first day of January next after the revision, and shall continue in operation for the year commencing with such first day of January.

Commencement and duration of Parliamentary register.

XXXIII. The burgess roll made up from revised lists under this Act of burgesses for any municipal borough shall come into operation on the first day of November next after the revision, and shall continue in operation for the year commencing with such first day of November.

Commencement and duration of burgess roll.

[Sect. 34. *Certain expressions in* 38 & 39 *Vict.* c. 40, *to refer to new burgess roll or ward list:* Repealed by the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 5, and sched. 1.]

XXXV. Where burgess lists are revised under this Act, the provisions of the Parliamentary Registration Acts as to appeal from the decision of the revising barrister shall apply to a decision on the revision of the burgess lists, and the provisions of the said Acts as to the alteration or correction of the register in pursuance of any judgment or order of the court of appeal shall apply to the alteration or correction of the burgess roll made up from the burgess lists as if it were a register of Parliamentary voters, except that the notice of the judgment or order shall be given to the town clerk having the custody of the burgess roll, and the alteration or correction shall be made and signed by him.

Appeal and correction of burgess roll where burgess lists are revised under this Act.

XXXVI. A revising barrister may by summons under his hand require any person to attend at the court and give evidence or produce documents for the purpose of the revision, and any person who after the tender to him of a reasonable amount for his expenses fails so to attend, or who fails to answer any question put to him by the revising barrister in pursuance of this section, or to produce any document which he is required in pursuance of this section to produce, shall be liable to pay such fine not exceeding five pounds as may be imposed by the revising barrister, and such fine may be recovered, and when recovered shall be applied in like manner as any other fine imposed by the revising barrister under the Parliamentary Registration Acts.

Power for revising barrister to summon witnesses.

XXXVII. If any person feels aggrieved by a revising barrister neglecting or refusing to state any case, he may, within one

Appeal where revising barrister neglects or refuses to state case.

Sect. 33.

Note.

See the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 45 (2), and the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 7.

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month after such neglect or refusal, apply to the High Court of Justice upon affidavit of the facts for a rule calling on the revising barrister, and also on the person, if any, in whose favour the decision from which the applicant desires to appeal was given, to show cause why a rule should not be made directing the appeal to be entertained and the case to be stated, and thereupon the High Court, or any judge thereof in chambers, may make such rule to show cause, and make the same absolute, or discharge it with or without payment of costs as seems just, and the revising barrister on being served with any such rule absolute shall state the case accordingly, and the case shall be stated and the appeal entertained and heard, notwithstanding any limitations of time or place contained in the Parliamentary Registration Act, 1843.

6 & 7 Vict. c. 18.

Costs of appeal.

XXXVIII. The costs of an appellant against a decision of a revising barrister may, if the appeal is successful, be ordered by the court hearing the appeal to be paid by the clerk of the peace or town clerk named as respondent in the said appeal, whether he shall or shall not appear before the said court in support of the decision.

For enabling an appellant to obtain such an order he may at or before the time of making his declaration of appeal under section forty-two of the Parliamentary Registration Act, 1843, require the revising barrister to name the clerk of the peace for the county or the town clerk for the Parliamentary borough or municipal borough, as the case may be, to which the appeal relates to be respondent in the appeal.

6 & 7 Vict. c. 18, s. 42.

The revising barrister if so required shall, and in any case may, name such clerk of the peace or town clerk, as the case may be, to be respondent in an appeal, either alone or in addition to any other person referred to in section forty-three of the Parliamentary Registration Act, 1843.

6 & 7 Vict. c. 18, s. 43.

The expenses properly incurred by a clerk of the peace or town clerk as respondent, including any costs which he may be ordered to pay to the appellant in any such appeal, shall be allowed to him as part of the expenses incurred by him in respect of the revision of the list to which the appeal relates. The term "expenses" in this section shall include all matters mentioned in section thirty-one of the Representation of the People Act, 1867.

30 & 31 Vict. c. 102, s. 31.

The costs of an appeal against a decision of a revising barrister shall be in the discretion of the court hearing the appeal, subject, except as aforesaid, to the proviso contained in section seventy of the Parliamentary Registration Act, 1843.

6 & 7 Vict. c. 18, s. 70.

Power to make rules for proceedings at revision courts.

XXXIX. The authority having power to make rules for regulating the practice and procedure in Her Majesty's High Court of Justice may from time to time make, and when made alter and annul, rules for regulating the practice and procedure

in the courts of revising barristers for the purposes of the Parliamentary Registration Acts and of this Act. Sect. 39.

All rules made under this section shall be laid before each House of Parliament within forty days next after the same are made, if Parliament is then sitting, and if not, within forty days after the beginning of the then next sitting of Parliament, and if an address is presented to Her Majesty by either of the said Houses within the next subsequent forty days on which the said House shall have sat praying that any such rule be annulled, Her Majesty may by Order in Council annul the same, and any rule so annulled shall thenceforth be of no effect, but without prejudice to the validity of any proceedings in the meantime taken thereunder. Rules to be laid before Parliament.

All such rules shall while in force have effect as if enacted in this Act.

XL. The provisions of section one hundred and one of the Parliamentary Electors Registration Act, 1843, as to the service of notices shall apply to the service of notices under this Act. Service of notices. 6 & 7 Vict. c. 18, s. 101.

The term "notice" in the Parliamentary Registration Acts and this Act shall include any document required to be sent or delivered.

[Sect. 41. *Application of* 35 & 36 *Vict.* c. 33, *s.* 13: Repealed by the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 5, and sched. 1.]

[Sect. 42. *Saving for existing registers and burgess rolls:* Repealed by the S. L. R. Act, 1883.]

[Sect. 43. *Saving for* 2 & 3 *Will.* 4, *c.* 45, *s.* 78: Repealed by the S. L. R. Act, 1894.]

SCHEDULE.

[Superseded by the Registration Order, 1895.]

# DENTISTS ACT, 1878.

41 & 42 VICT. CHAP. 33.

An Act to amend the law relating to Dental Practitioners.

[22nd July, 1878.]

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XXX. Every person registered under this Act shall be exempt, if he so desires, from serving on all juries and inquests whatsoever, and from serving all corporate, parochial, ward, hundred, Exemptions of registered persons.

Sect. 30.

and township offices, and from serving in the militia; and the name of any registered person shall not be returned in any list of persons liable to serve in the militia, or in any such office as aforesaid.

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# DISTRICT AUDITORS ACT, 1879.

## 42 & 43 VICT. CHAP. 6.

An Act to amend the law with respect to District Auditors.
[28th March, 1879.]

[The preamble, repealed by the S. L. R. Act, 1894, recited that it was expedient that the remuneration and expenses of district auditors should be paid out of monies voted by Parliament, instead of being partly paid out of local rates, and that an amount equivalent to what was paid out of local rates should be raised by means of stamps.]

BE it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

I. This Act may be cited as the District Auditors Act, 1879.

Provision as to contribution by Treasury and out of local rate for payment of district auditors.

II. . . . The whole of the salaries or remuneration and of the expenses of district auditors, to such amount as may be sanctioned by the Treasury, shall be paid out of monies provided by Parliament; and for the purpose of contributing to the amount required for the payment of such salaries, remuneration, and expenses, there shall be charged on every local authority whose accounts are audited by a district auditor a stamp duty for the use of Her Majesty, according to the scale contained in the first schedule to this Act, and such duty shall be levied by a stamp on the certificate of the auditor herein-after mentioned.

Financial statement with stamped

III. Where the accounts of the receipts and expenditure of a local authority are audited by a district auditor, the local

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Sect. 3. Note.

The form of financial statement and of the auditor's certificate has been prescribed by General Order of April 25th, 1879.

The Local Taxation Returns Act, 1860 (23 & 24 Vict. c. 51), provides for an annual return to be made to the Local Government Board by clerks of local authorities authorized to levy rates, taxes, &c., of all monies so raised; private tolls are specially exempted

authority shall prepare and submit to the district auditor at every audit (other than an extraordinary audit held in pursuance of section six of the Poor Law Amendment Act, 1866) a financial statement in duplicate in the prescribed form and containing the prescribed particulars; one of such duplicates shall have the stamp charged under this Act affixed thereon, and the auditor at the conclusion of the audit shall cancel that stamp, and certify on each duplicate, in the prescribed form, the amount in words at length of the expenditure so audited and allowed, and further, that the regulations with respect to such statement have been duly complied with, and that he has ascertained by the audit the correctness of the statement.

Sect. 3. certificate of district auditor. 29 & 30 Vict. c. 113, s. 6.

He shall forthwith send the duplicate so stamped and certified by him to the Local Government Board; and in such case a return of the receipts or expenditure comprised in such statement need not, unless the Local Government Board so require, be sent to the board in pursuance of the Local Taxation Returns Acts, 1860 and 1877.

23 & 24 Vict. c. 51. 40 & 41 Vict. c. 66.

IV. The Local Government Board may from time to time appoint such number of district auditors as they may, with the sanction of the Treasury, think necessary for the performance of the duties of auditing the accounts which are for the time

Appointment and districts of district auditors.

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from the operation. The Act of 1877 (40 & 41 Vict. c. 66) provides that the annual return of local taxation shall be made for the year ending on March 25th, or on such other day as the Local Government Board may from time to time prescribe on the application of a local authority. The date has now been altered to March 31st by the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 73. But no return under the above Acts is necessary when the accounts are audited by a district auditor under this Act.

Sect. 3. Note.

The accounts of the following bodies are audited by district auditors:—Poor law guardians; overseers of the poor; managers of school districts formed under the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101); Metropolitan Asylums Board; managers of metropolitan sick asylum districts; county councils; district councils other than borough councils; joint committees appointed by a borough council with another council not being a borough; parish councils; school boards; highway boards and surveyors and waywardens of highway parishes, where the time for the transfer of their powers to the district councils has been extended by the Local Government Board, and has not yet expired.

Sect. 4. Note.

The audit of poor law accounts is regulated by the following statutes:—The Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 47; the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), ss. 32—36, 49, 65; the Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91); the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), ss. 9, 11; the Poor Law Amendment Act, 1866 (29 & 30 Vict. c. 113), ss. 6, 7; the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), ss. 37, 38.

Sect. 4.

being by law subject to be audited by district auditors, and may from time to time remove such auditors.

The board may from time to time assign to district auditors their duties, and the districts in which such auditors respectively are to act, and may from time to time change wholly or in part such duties or districts; and every district so assigned to a district auditor, whether originally or upon any change, shall be deemed to be an audit district within the meaning of any enactment relating to district auditors or their districts, and the auditor to whom any district is assigned shall be deemed to be the district auditor for that district.

The board may also, with the consent of the Treasury, appoint from time to time a person or persons, either temporarily or otherwise, to assist a district auditor in the performance of his duties, and any person so appointed shall, subject to any exceptions made by the terms of his appointment, have the same powers and duties, and be subject to the same obligations as the district auditor whom he is appointed to assist.

The board, with the like consent, may assign to a person so appointed such salary or remuneration and such sum for his expenses as may seem fit, and such salary, remuneration, and expenses shall be paid out of monies provided by Parliament.

Regulations as to audit.

V. Where any accounts of the receipts and expenditure of a local authority are subject by law to be audited by a district auditor, the Local Government Board may from time to time by order make, and when made revoke and vary, such regulations as seem to the board necessary or proper respecting the audit of such accounts, including the form of keeping the accounts of the local authority and their officers, the day or days to which the accounts are to be made up, the time within which they are to be examined by the local authority, the mode in which, if it is so prescribed, they are to be certified by the local authority or any officer of that authority, the mode of publishing the time and place of holding the audit, the persons by whom such accounts are to be produced for audit, and the mode of conducting the audit, and an order under this section shall be deemed to be an order within the meaning of section ninety-eight of the Poor Law Amendment Act, 1834.

4 & 5 Will. 4, c. 76.

Stamp duties under Inland Revenue.

VI. The duties charged under this Act shall be deemed to be stamp duties under the management of the Commissioners of Inland Revenue, and all the Acts relating to stamp duties,

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Sect. 5.

Note.

The regulations for the audit of poor law accounts are contained in the General Order for Accounts, January 14th, 1867.

Sect. 98 of 4 & 5 Will. 4, c. 76, provides for penalties, &c., for disobedience to any of the rules, orders, or regulations of the Poor Law Commissioners (now Local Government Board).

particularly those relating to forgery, fraudulent dies, and other offences in connection with stamp duties, shall apply accordingly; and such duties may, if the commissioners so direct, be denoted by adhesive stamps, to be cancelled by the auditor as provided by this Act. Sect. 6.

VII. If a local authority fail to comply with the provisions of this Act with respect to a financial statement, such local authority, or if a clerk to the local authority is appointed, that clerk, and if no clerk is appointed, but there is a treasurer or other officer keeping the accounts which should be comprised in such financial statement, that treasurer or other officer shall be liable to a fine not exceeding twenty pounds for each offence, to be recovered by action on behalf of Her Majesty in the High Court. Failure to submit financial statement.

VIII. In this Act,—

The expression "local rate" means the poor rate, the general district rate, and every rate the proceeds of which are applicable to public local purposes, and which is leviable on the basis of a poundage assessment of the value of property, and includes any sum which, though obtained in the first instance by a precept, certificate, or other instrument requiring payment from some authority or officer, is or can be ultimately raised out of a rate as before defined. Definitions.

The expression "local authority" means any person or body of persons who receive and expend any local rate, but does not include overseers of the poor.

The expression "prescribed" means prescribed from time to time by the Local Government Board.

* * * * *

[Sects. 9, 10, containing transitory provisions, are repealed by the S. L. R. Act, 1894.]

XI. *The Acts specified in the second schedule to this Act are hereby repealed to the extent in the third column of that schedule mentioned.* Repeal of Acts.

*Provided that—*

(1) *This repeal shall not affect anything done or suffered, or any right acquired or accrued, under any enactment hereby repealed; and*

(2) Any auditor appointed in pursuance of any enactment

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The penalty can only be sued for by the Attorney-General. (See *Bradlaugh* v. *Clarke*, 8 App. Cas. 354; 52 L. J. Q. B. 505; 48 L. T. 681; 31 W. R. 677; 47 J. P. 405.) Sect. 7. Note.

The words in italics are repealed by the S. L. R. Act, 1894. Sect. 11. Note.

Sect. 11.

hereby repealed shall (save as may be prescribed) have the same powers and duties and be subject to the same obligations as if such enactment had not been repealed.

Saving of certain fees and expenses.

XII. Nothing in this Act shall prevent a district auditor from recovering . . . any expenses . . . which he may . . . incur, in any proceedings which he is authorized or required to take or defend under the statutes in that behalf.

Sect. 2.

FIRST SCHEDULE.

*Scale of Stamp Duties payable by Local Authorities.*

| Where the Total of the expenditure comprised in the Financial Statement is | The Sum shall be |
|---|---|
| Under 20*l.* ... ... ... ... ... | 5*s.* |
| 20*l.* and under 50*l.* ... ... ... | 10*s.* |
| 50*l.* and under 100*l.* ... ... ... | 1*l.* |
| 100*l.* and under 500*l.* ... ... ... | 2*l.* |
| 500*l.* and under 1,000*l.* ... ... | 3*l.* |
| 1,000*l.* and under 2,500*l.* ... ... | 4*l.* |
| 2,500*l.* and under 5,000*l.* ... ... | 5*l.* |
| 5,000*l.* and under 10,000*l.* ... ... | 10*l.* |
| 10,000*l.* and under 20,000*l.* ... ... | 15*l.* |
| 20,000*l.* and under 50,000*l.* ... ... | 20*l.* |
| 50,000*l.* and under 100,000*l.* ... ... | 30*l.* |
| 100,000*l.* and upwards ... ... ... | 50*l.* |

For the purpose of this schedule the expenditure comprised in the financial statement shall be exclusive of any sum paid to another local authority in pursuance of a precept.

SECOND SCHEDULE.

[*Acts repealed:* Repealed by the S. L. R. Act, 1894.]

Sect. 12. Note.

Certain transitory provisions in this section are repealed by the S. L. R. Act, 1894.

By the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), s. 11, district auditors may recover costs of proceedings to enforce due attendance at the audit; and by the Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91), s. 9, they may recover costs of proceedings taken to recover sums certified by them to be due.

Schedule 1. Note.

This schedule has been modified by the Local Government Act, 1888 (51 & 52 Vict. c. 41, s. 71), and sched. 2, which provides that

# ASSESSED RATES ACT, 1879.

## 42 & 43 VICT. CHAP. 10.

An Act to amend the Poor Rate Assessment and Collection Act, 1869. [23rd May, 1879.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Sect. 1.

Short title and construction.

32 & 33 Vict. c. 41.

I. This Act may be cited as the Assessed Rates Act, 1879, and shall be construed as one with the Poor Rate Assessment and Collection Act, 1869, in this Act called the principal Act.

Effect of allowance or deduction as regards qualification or franchise.

II. Where by way of commission of abatement or deduction under the principal Act, or purporting or assumed to be under the principal Act, an allowance or deduction has, before the passing of this Act, been or shall hereafter be actually made, the same shall, for the purpose of every qualification or franchise depending upon rating or upon payment of rates, be deemed to have been duly made in pursuance of every or any agreement, order, notice or proceeding necessary for the validity thereof under the principal Act, and to have been and to be an allowance or deduction which the overseers were and are empowered

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Schedule 1.

Note.

the following scale shall, unless otherwise determined by Parliament, be substituted for so much of the scale set forth in the first schedule to the District Auditors Act, 1879, as relates to expenditure amounting to 100,000*l.* and upwards:—

| Where the Total of the expenditure comprised in the Financial Statement is | The Sum shall be |
|---|---|
| 100,000*l.* and under 150,000*l.* ... ... ... | 50*l.* |
| 150,000*l.* and under 200,000*l.* ... ... ... | 60*l.* |
| 200,000*l.* and upwards ... ... ... ... | 15*l.* in addition for every 50,000*l.* or part thereof. |

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Sect. 2.

Note.

The object of this section is to remove doubts as to the qualification or franchise of an occupier where there has been some irregularity under the agreement, order, or notice under which the owner has been rated and paid rates under the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41).

Sect. 2.

to make from the rate under the principal Act ; and no qualification or franchise depending upon rating or upon payment of rates shall be defeated by reason of such allowance or deduction not having been made in pursuance of an agreement in writing, order in writing, or notice in writing, or by reason of the want or insufficiency of any agreement, order, notice, or proceeding necessary for the validity thereof under the principal Act, or by reason of any informality or defect in the making thereof ; provided always that this Act shall not relieve any overseers from any liability which they have incurred or may incur by making an allowance or deduction otherwise than in pursuance of the provisions of the principal Act, or affect any remedy for the recovery of the amount of such allowance or deduction.

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# POOR LAW AMENDMENT ACT, 1879.

## 42 & 43 VICT. CHAP. 12.

An Act to amend the Divided Parishes and Poor Law Amendment Act, 1876. [23rd May, 1879.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

The provisions of sect. 23 of 39 & 40 Vict. c. 61, not to apply to monies to which a pauper or pauper lunatic may be

1. The provisions contained in the twenty-third section of the Divided Parishes and Poor Law Amendment Act, 1876, shall not apply to any monies which a pauper or pauper lunatic having a wife or other relative dependent upon him for maintenance may be entitled to receive as a member of any friendly or benefit society, but such monies shall, subject to any deductions for keeping up his membership required by the rules of such society, or any branch thereof, from which such pauper or

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Sect. 1. Note.

Sect. 23 of 39 & 40 Vict. c. 61, provides that where a pauper is entitled to an annuity or periodical payment, the trustees bound to make payment of the same to the pauper may pay thereout to the guardians the cost of the pauper's relief ; and enables the guardians to obtain from the justices an order on such trustees to make such payment to the guardians.

For the provisions relative to relief by way of loan, see the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), ss. 58, 59, and the Poor Law Amendment Act, 1848 (11 & 12 Vict. c. 110), s. 8.

A trades union is not a "friendly or benefit society" under this section or under sect. 23 of 39 & 40 Vict. c. 61 (*Winder* v. *Kingston-on-Hull Guardians*, 20 Q. B. D. 412 ; 58 L. T. 583 ; 52 J. P. 535).

pauper lunatic is entitled to receive such monies, be paid or applied by the trustees, committee, or other officers of such society or branch to or for the maintenance of such wife or relative; and where a pauper or pauper lunatic having no wife or relative so dependent upon him is entitled to any such monies, no claim shall be made under the said Act by the guardians of any union or parish upon any such society of which he is a member, or against any branch thereof, for the expenses incurred in his relief, unless and until the guardians or their relieving officer shall have declared the relief to be given on loan, and shall have, within thirty days thereof, notified the same in writing to the secretary or trustees of the society or branch of which the pauper or pauper lunatic is a member, and as such entitled to receive any payment.

Sect. 1. entitled as a member of friendly or benefit society.

II. This Act may be cited as the Poor Law Amendment Act, 1879. Short title.

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## HABITUAL DRUNKARDS ACT, 1879.

### 42 & 43 VICT. CHAP. 19.

An Act to facilitate the Control and Cure of Habitual Drunkards. [3rd July, 1879.]

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XXXII. The time during which a person is detained in a retreat shall for all purposes be excluded in the computation of time mentioned in section one of the Act of the ninth and tenth years of the reign of Her present Majesty, chapter sixty-six, intituled "An Act to amend the Laws relating to the Removal of the Poor," as amended by any other Act. Time under 9 & 10 Vict. c. 66, s. 1.

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Sect. 32. Note.

The operation of this section is that the time during which a person is detained in a retreat is to be excluded in the computation of the year's residence in a parish or union necessary to confer upon such person a status of irremovability by residence.

See also on this point the Inebriates Act, 1898 (61 & 62 Vict. c. 60), s. 22.

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# ELEMENTARY EDUCATION (INDUSTRIAL SCHOOLS) ACT, 1879.

42 & 43 VICT. CHAP. 48.

An Act to amend the Law respecting the Powers of School Boards in relation to Industrial Schools.

[11th August, 1879.]

33 & 34 Vict. c. 76, s. 28, 36 & 37 Vict. c. 86, s. 10, and 39 & 40 Vict. c. 79, s. 15.

*WHEREAS under the Elementary Education Acts, 1870 and 1873, and the Elementary Education Act, 1876, a school board have power, with the consent of one of Her Majesty's principal Secretaries of State, to establish, build, and maintain industrial schools, and to spread the payment of the expense of such establishment and building over a number of years not exceeding fifty, and to borrow money for that purpose:*

29 & 30 Vict. c. 118, s. 12.

*And whereas a school board, under the said Acts, have the same power as is given to a prison authority by section twelve of the Industrial Schools Act, 1866, to contribute money towards the alteration, enlargement, or rebuilding of an industrial school, or towards the establishment or building of an industrial school, or towards the purchase of land required for the use or for the site of an industrial school:*

35 & 36 Vict. c. 21. 29 & 30 Vict. c. 118, s. 12.

*And whereas under the Reformatory and Industrial Schools Act Amendment Act, 1872, section twelve of the Industrial Schools Act, 1866, is extended to authorize the prison authority themselves to undertake anything towards which they are authorized by that section to contribute:*

*And whereas doubts have arisen whether a school board have power to undertake themselves anything towards which they are authorized as above mentioned to contribute or have power to spread the payment of the amount of any such contribution or of the cost of any such undertaking over a number of years, and to borrow money for that purpose, and it is expedient to remove such doubts.*

[The preamble is repealed by the S. L. R. Act, 1894, but is printed as likely to assist in explaining the purpose of the Act.]

* * * * *

Short title.

[I.] This Act may be cited as the Elementary Education (Industrial Schools) Act, 1879.

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Extension to school board of 29 & 30 Vict. c. 118,

II. A school board shall have power themselves to undertake anything towards which they are authorized by the Industrial

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Sect. 1.

Note.

The remainder of this section as to the citation of the Act is repealed by the S. L. R. Act, 1894.

Sect. 2.

Note.

By the Elementary Education Act, 1870 (33 & 34 Vict. c. 75), s. 27, a school board has the same powers of contributing money

Schools Act, 1866, as applied by the Elementary Education Acts, 1870 and 1873, and the Elementary Education Act, 1876, or any of them, to contribute, subject nevertheless to the like consent as is required in the case of any such contribution.

Sect. 2.

33 & 34 Vict. c. 75, 36 & 37 Vict. c. 86, 39 & 40 Vict. c. 75.

III. Where a school board resolve to contribute any sum of money towards, or to undertake the cost of the alteration, enlargement, or rebuilding, but not of the furnishing of an industrial school, or the establishment or building, but not of the furnishing of a school intended to be an industrial school, or the purchase of land required either for the use of an existing industrial school, or for the site of a school intended to be an industrial school, such school board, with the consent of one of Her Majesty's principal Secretaries of State, shall have the same power of spreading the payment of the sums so contributed, or of the cost of such undertaking, over a number of years, and of borrowing money for that purpose, as they have in the case where they resolve to establish an industrial school; and the provisions of the Elementary Education Acts, 1870 and 1873, and the Elementary Education Act, 1876, and the Public Works Loans Act, 1875, shall apply accordingly.

Power of school board to borrow for contribution towards, or undertaking cost of enlarging, an industrial school.

33 & 34 Vict. c. 75. 36 & 37 Vict. c. 86.

For the purposes of this Act an industrial school means a certified industrial school and a certified day industrial school.

39 & 40 Vict. c. 79. 38 & 39 Vict. c. 89.

IV. Where a child is ordered upon complaint made by a school attendance committee to be sent to a certified industrial school, the council, guardians, or sanitary authority appointing such committee shall have, on the recommendation of the committee, the same power of contributing toward the maintenance of such child in the said school as if they were a school board, and the contribution by such guardians shall require the like consent as is required under section thirty-one of the

Power of guardians to contribute to maintenance of child in industrial school.

39 & 40 Vict. c. 79, s. 31.

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Sect. 2. Note.

in the case of an industrial school as are given to a prison authority by sect. 12 of the Industrial Schools Act, 1866 (29 & 30 Vict. c. 118).

For the powers of a school board to establish and maintain certified industrial schools and certified day industrial schools, see the Elementary Education Act, 1870 (33 & 34 Vict. c. 75), s. 28, and the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), s. 15.

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Sect. 3. Note.

As to the powers of a school board of raising money on loan, see the Elementary Education Act, 1873 (36 & 37 Vict. c. 86), s. 10.

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Sect. 4. Note.

As to sending a child to a certified industrial school upon complaint of the school attendance committee, see the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), ss. 12, 13; and as to the expenses of school attendance committees, see sects. 31 and 33 of that Act.

Sect. 4.

Elementary Education Act, 1876, to any other expense incurred by a school attendance committee.

The expenses of any such contribution shall be paid in like manner as the expenses of the school attendance committee, on whose recommendation the contribution is made, are paid in pursuance of the Elementary Education Act, 1876.

39 & 40 Vict. c. 79.

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# SUMMARY JURISDICTION ACT, 1879.

42 & 43 VICT. CHAP. 49.

An Act to amend the Law relating to the Summary Jurisdiction of Magistrates. [11th August, 1879.]

[This Act is only set out here in so far as it may possibly affect the procedure in such poor law cases as may come before courts of summary jurisdiction.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short title.

I. This Act may be cited for all purposes as the Summary Jurisdiction Act, 1879.

II. This Act shall not extend to Scotland or Ireland.

* * * * *

## PART I.

*Court of Summary Jurisdiction.*

Mitigation of punishment by Court.

IV. Subject as in this Act mentioned, and notwithstanding any enactment to the contrary, where a court of summary jurisdiction has authority under this Act, or under any other Act, whether past or future, to impose imprisonment or to impose a fine for an offence punishable on summary conviction,

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Sect. 4.

Note.

The fine mentioned in the last paragraph of this section is not enforceable by imprisonment with hard labour but by distress, and in default of distress by imprisonment without hard labour, under the S. J. Act, 1848 (11 & 12 Vict. c. 43), ss. 19, 22, as amended by the Stipendiary Magistrates Act, 1858 (21 & 22 Vict. c. 73), s. 5.

Where a statute of later date than this Act expressly prescribes a minimum limit for the fine to be imposed for a first offence, this section does not confer any power on the justices to reduce the fine below that limit (*Osborn* v. *Wood Brothers*, [1897] 1 Q. B. 197; 66 L. J. Q. B. 178; 76 L. T. 60; 45 W. R. 319; 61 J. P. 118).

Sect. 4.

that court may, in the case of imprisonment, impose the same without hard labour, and reduce the prescribed period thereof, or do either of such acts; and in the case of a fine, if it be imposed as in respect of a first offence, may reduce the prescribed amount thereof.

And where in the case either of imprisonment or a fine there is prescribed a requirement for the offender to enter into his recognizance and to find sureties for keeping the peace, and observing some other condition, or to do any of such things, the court may dispense with any such requirement or any part thereof.

And where a court of summary jurisdiction has authority under an Act of Parliament other than this Act, whether past or future, to impose imprisonment for an offence punishable on summary conviction, and has not authority to impose a fine for that offence, that court when adjudicating on such offence may, notwithstanding, if the court think that the justice of the case will be better met by a fine than by imprisonment, impose a fine not exceeding twenty-five pounds, and not being of such an amount as will subject the offender under the provisions of this Act, in default of payment of the fine, to any greater term of imprisonment than that to which he is liable under the Act authorizing the said imprisonment.

Scale of imprisonment for non-payment of money.

V. The period of imprisonment imposed by a court of summary jurisdiction under this Act, or under any other Act, whether past or future, in respect of the non-payment of any sum of money adjudged to be paid by a conviction, or in respect of the default of a sufficient distress to satisfy any such sum, shall, notwithstanding any enactment to the contrary in any past Act, be such period as in the opinion of the court will satisfy the justice of the case, but shall not exceed in any case the maximum fixed by the following scale; that is to say,

| Where the amount of the sum or sums of money adjudged to be paid by a conviction, as ascertained by the conviction, | The said period shall not exceed. |
|---|---|
| Does not exceed ten shillings - - - | Seven days. |
| Exceeds ten shillings but does not exceed one pound - - - - - - | Fourteen days. |
| Exceeds one pound but does not exceed five pounds - - - - - - | One month. |
| Exceeds five pounds but does not exceed twenty pounds - - - - - | Two months. |
| Exceeds twenty pounds - - - - | Three months. |

Sect. 5.

Note.

For the extension of the provisions of this section to the recovery of arrears under a bastardy order, see sect. 54, *post*.

Mere debts, though in form recoverable as penalties, can only be recovered as civil debts under sect. 6 (*Reg.* v. *Kerswill*, [1895] 1 Q. B. 1; 64 L. J. M. C. 70; 71 L. T. 574; 43 W. R. 59; 59 J. P. 342).

Sect. 5.

And such imprisonment shall be without hard labour, except where hard labour is authorized by the Act on which the conviction is founded, in which case the imprisonment may, if the court thinks the justice of the case requires it, be with hard labour, so that the term of hard labour awarded do not exceed the term authorized by the said Act.

Sum recoverable by summary order to be recoverable as a civil debt.

VI. Where under any Act, whether past or future, a sum of money claimed to be due is recoverable on complaint to a court of summary jurisdiction, and not on information, such sum shall be deemed to be a civil debt, and if recovered before a court of summary jurisdiction shall be recovered in the manner in which a sum declared by this Act to be a civil debt recoverable summarily is recoverable under this Act, and not otherwise; and the payment of any costs ordered to be paid by the complainant or defendant in the case of any such complaint shall be enforced in like manner as such civil debt, and not otherwise.

Payment by instalments of or security taken for payment of money.

VII. A court of summary jurisdiction, by whose conviction or order any sum is adjudged to be paid, may do all or any of the following things; namely,—

(1) Allow time for the payment of the said sum; and

Sect. 6.

Note.

Money due under an order of justices made upon a person for the maintenance of a relative under the Poor Relief Act, 1601 (43 Eliz. c. 2), s. 7, is recoverable before a court of summary jurisdiction as a civil debt and not as a penalty, so that the provisions of sect. 35, *post*, apply, and an order of justices for the payment of money so due cannot be enforced by imprisonment in default of distress, unless it is proved that the person in default has since the date of the latter order had the means to pay the sum in respect of which he has made default (*In re Gamble*, [1899] 1 Q. B. 305).

This section and sect. 47 do not apply to proceedings for recovery of poor rates, although money due for rates is a civil debt; and a distress warrant in respect of such rates may be issued as before the passing of this Act (*Reg.* v. *Price*, 5 Q. B. D. 300; 49 L. J. M. C. 49; 42 L. T. 439; 28 W. R. 615; 44 J. P. 315). That decision proceeded on the ground that justices in granting a distress warrant for poor rates acted ministerially and not as a court of summary jurisdiction, and that the money was not recoverable by their order, but that the rate itself was the order. Sect. 7 of the S. J. Act, 1884 (47 & 48 Vict. c. 43), which was repealed and re-enacted by sect. 13 (11) of the Interpretation Act, 1889 (52 & 53 Vict. c. 63), defined a "court of summary jurisdiction" in such a way as to include in that expression justices acting under 43 Eliz. c. 2; but sect. 10 of the S. J. Act, 1884, also provided that nothing in that Act should alter the procedure for the recovery of or any remedy for the non-payment of any poor rate, so that the decision in *Reg.* v. *Price*, *supra*, is still law. (See also *Sweetman* v. *Guest*, L. R. 3 Q. B. 262; 37 L. J. M. C. 59.)

This section does not apply to fines and penalties for criminal offences, even where they are to be recovered on complaint (*Reg.* v. *Paget*, 8 Q. B. D. 151; 51 L. J. M. C. 9; 45 L. T. 794; 30 W. R. 336; 46 J. P. 151).

(2) Direct payment to be made of the said sum by instalments; and

(3) Direct that the person liable to pay the said sum shall be at liberty to give to the satisfaction of that court, or of such other court of summary jurisdiction, or such person as may be specified by that court, security with or without a surety or sureties for the payment of the said sum or of any instalment thereof, and such security may be given and enforced in manner provided by this Act.

Where a sum is directed to be paid by instalments and default is made in the payment of any one instalment, the same proceedings may be taken as if default had been made in payment of all the instalments then remaining unpaid.

A court of summary jurisdiction directing the payment of a sum or of an instalment of a sum may direct such payment to be made at such time or times, and in such place or places, and to such person or persons, as may be specified by the court; and every person to whom any such sum or instalment is paid, where not the clerk of the court of summary jurisdiction, shall as soon as may be account for and pay over the same to that clerk.

Provision as to costs in the case of small fines.

VIII. Where a fine adjudged by a conviction by a court of summary jurisdiction to be paid does not exceed five shillings, then, except so far as the court may think fit to expressly order otherwise, an order shall not be made for payment by the defendant to the informant of any costs; and the court shall, except so far as they think fit to expressly order otherwise, direct all fees payable or paid by the informant to be remitted or repaid to him; the court may also order the fine or any part thereof to be paid to the informant in or towards the payment of his costs.

* * * * *

Restriction on punishment of child for summary offence.

XV. A child on summary conviction for an offence punishable on summary conviction under this Act, or under any other Act, whether past or future, shall not be imprisoned for a longer period than one month nor fined a larger sum than forty shillings.

Power of court to discharge accused without punishment.

XVI. If upon the hearing of a charge for an offence punishable on summary conviction under this Act, or under any other Act, whether past or future, the court of summary jurisdiction think that though the charge is proved the offence was in the particular case of so trifling a nature that it is inexpedient to inflict any punishment, or any other than a nominal punishment,—

(1) The court, without proceeding to conviction, may dismiss the information, and, if the court think fit, may order the person charged to pay such damages, not exceeding

Sect. 16.

forty shillings, and such costs of the proceeding, or either of them, as the court think reasonable; or,

(2) The court upon convicting the person charged may discharge him conditionally on his giving security, with or without sureties, to appear for sentence when called upon, or to be of good behaviour, and either without payment of damages and costs, or subject to the payment of such damages and costs, or either of them, as the court think reasonable:

Provided that this section shall not apply to an adult convicted in pursuance of this Act of an offence of which he has pleaded guilty, and of which he could not, if he had not pleaded guilty, be convicted by a court of summary jurisdiction.

Right to claim trial by jury in case of offences otherwise triable summarily.

XVII.—(1) A person when charged before a court of summary jurisdiction with an offence, in respect of the commission of which an offender is liable on summary conviction to be imprisoned for a term exceeding three months, and which is not an assault, may, on appearing before the court and before the charge is gone into but not afterwards, claim to be tried by a jury, and thereupon the court of summary jurisdiction shall deal with the case in all respects as if the accused were charged with an indictable offence and not with an offence punishable on summary conviction, and the offence shall as respects the person so charged be deemed to be an indictable offence, and, if the person so charged is committed for trial, or bailed to appear for trial, shall be prosecuted accordingly, and the expenses of the prosecution shall be payable as in cases of felony.

(2) A court of summary jurisdiction, before the charge is gone into in respect of an offence to which this section applies, for the purpose of informing the defendant of his right to be tried by a jury in pursuance of this section, shall address him to the following effect: "You are charged with an offence in respect of the commission of which you are entitled, if you

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Note.

If a person charged with an offence, punishable with imprisonment for not more than three months, has been previously convicted and consequently is liable to be imprisoned for more than three months, but the fact of the previous conviction is not known to the justices until after the case has been heard, the defendant cannot then claim to be tried by a jury, and the justices may inflict a punishment as for a first offence (*Reg.* v. *Fowler*, 64 L. J. M. C. 9). On the other hand, if a defendant elects to be tried by a jury, he may be committed for trial for an indictable offence disclosed on the depositions, provided it is not one falling within the Vexatious Indictment Acts (*Reg.* v. *Brown*, 59 J. P. 485).

This section does not apply where the defendant is liable to a further term of imprisonment for not finding sureties after the expiration of the original term of three months' imprisonment (*Williams* v. *Wynne*, 57 L. J. M. C. 30; 58 L. T. 283; 52 J. P. 344).

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desire it, instead of being dealt with summarily, to be tried by a jury; do you desire to be tried by a jury?" with a statement, if the court think such statement desirable for the information of the person to whom the question is addressed, of the meaning of being dealt with summarily, and of the assizes or sessions (as the case may be) at which such person will be tried if tried by a jury.

(3) This section shall not apply to the case of a child unless the parent or guardian of the child is present; but the court shall ascertain whether the parent or guardian of the child is present, and if he is, shall address the above question to such parent or guardian, and the claim under this section may be made by such parent or guardian.

* * * * *

Appeal from summary conviction to general or quarter sessions.

XIX Where, in pursuance of any Act, whether past or future, any person is adjudged by a conviction or order of a court of summary jurisdiction to be imprisoned without the opinion of a fine, either as a punishment for an offence, or, save as herein-after mentioned, for failing to do or to abstain from doing any act or thing required to be done or left undone, and such person is not otherwise authorized to appeal to a court of general or quarter sessions and did not plead guilty, or admit the truth of the information or complaint, he may, notwithstanding anything in the said Act, appeal to a court of general or quarter sessions against such conviction or order:

Provided that this section shall not apply where the imprisonment is adjudged for failure to comply with an order for the payment of money, for the finding of sureties, for the entering into any recognizance, or for the giving of any security.

Court of summary jurisdiction to sit at a petty sessional or occasional court-house, &c.

XX.—(1) A case arising under this Act, or under any other Act, whether past or future, shall not be heard, tried, determined, or adjudged by a court of summary jurisdiction, except when sitting in open court.

(2) Open court means a petty sessional court-house or an occasional court-house.

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(4) An occasional court-house means such police station or other place as is appointed (as herein-after provided) to be used as an occasional court-house.

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Sect. 19. Note.

This section does not apply to indictable offences dealt with summarily under *this* Act (*Reg.* v. *London JJ.*, *Re Lambert*, [1892] 1 Q. B. 664; 61 L. J. M. C. 104; 66 L. T. 678; 56 J. P. 421; 40 W. R. 575). Nor does it give to a complainant a right of appeal against the dismissal of an information or complaint; such appeal only lies when given by the statute creating the offence (*R.* v. *London JJ.*, [1891] 55 J. P. 56).

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Sect. 20. Note.

Sub-sects. (3) and (6) of this section, which contained the definitions of a petty sessional court-house and petty sessional court, are

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(5) The justices of a petty sessional division of a county shall from time to time, at a sessions of which notice has been given to every justice of such division, appoint police stations or other places other than the petty sessional court-house, to be used as occasional court-houses, at which cases may be heard, tried, determined and adjudged, and they may from time to time at such a sessions as aforesaid vary any police station or place so appointed, and shall cause public notice to be given in such manner as they think expedient of every police station or place for the time being appointed to be used as an occasional court-house.

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(7) Where a case arising under this Act, or under any other Act, whether past or future, is heard, tried, determined and adjudged by a court of summary jurisdiction sitting in an occasional court-house, the period of imprisonment imposed by the conviction or order of such court shall not exceed fourteen days, and the sum adjudged to be paid by the conviction or order of such court shall not exceed twenty shillings; and a justice of the peace when sitting alone in a petty sessional court-house shall not have power to impose any greater term of imprisonment or adjudge any larger sum to be paid than is above mentioned.

(8) An indictable offence dealt with summarily in pursuance of this Act shall not be heard, tried, determined or adjudged except by a petty sessional court sitting on some day appointed for hearing indictable offences, of which public notice has been given in such manner as to the justices of the petty sessional division seem expedient, or at some adjournment of such court.

(9) Any case arising under this Act, other than such indictable offence as aforesaid, and any case arising under any future

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Sect. 20. Note.

repealed by the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 41, and replaced by sect. 10, sub-sects. (13) and (12) respectively of that Act.

The provisions of this section as to the hearing of cases in open court will not apply to justices sitting to enforce payment of poor rates. (See *Reg.* v. *Price*, 5 Q. B. D. 300, and the notes to sect. 6, *supra*.)

In a borough which had no separate commission of the peace the mayor and a county justice used to sit at the town hall where they held petty and special sessions. Since the passing of this Act, petty sessions had been held at the county hall only, but afterwards the justices again sat in the town hall. It was held that the town hall was a petty sessional court-house, being a place where justices were accustomed to assemble (*Jones* v. *Jones*, 51 J. P. 198). But see *Huntingdon Corporation* v. *Huntingdon County Council*, [1901] 2 K. B. 257, as to the right of holding petty or special sessions for a borough which has no separate commission of the peace.

An order for the adjudication of a pauper lunatic may be made by justices sitting at the workhouse of the parish or union (*Bath Union* v. *Paddington*, 62 J. P. 521).

Act which is triable by a court of summary jurisdiction, shall, unless it is otherwise prescribed, be heard, tried, determined and adjudged by a court of summary jurisdiction consisting of two or more justices. Sect. 20.

(10) The Lord Mayor of the city of London, and any alderman of the said city, and any metropolitan or borough police magistrate or other stipendiary magistrate, when sitting in a court-house or place at which he is authorized by law to do alone any act authorized to be done by more than one justice of the peace, shall, for the purposes of this Act, be deemed to be a court of summary jurisdiction, consisting of two or more justices, and also to be a court of summary jurisdiction, sitting in a petty sessional court-house, and is in this Act included in the expression "petty sessional court."

(11) A court of summary jurisdiction, when not a petty sessional court, may, without prejudice to any other power of adjournment which the court may possess, adjourn the hearing of any case to the next practicable sitting of a petty sessional court in the same manner in all respects as a justice is authorized to adjourn the hearing of a case under section sixteen of the Summary Jurisdiction Act, 1848. 11 & 12 Vict. c. 43.

XXI.—(1) A court of summary jurisdiction to whom application is made either to issue a warrant of distress for any sum adjudged to be paid by a conviction or order, or to issue a warrant for committing a person to prison for non-payment of a sum of money adjudged to be paid by a conviction, or in the case of a sum not a civil debt by an order, or for default of sufficient distress to satisfy any such sum, may, if the court deem it expedient so to do, postpone the issue of such warrant until such time and on such conditions, if any, as to the court may seem just. Special provisions as to warrants of commitment for non-payment of sums of money, and as to warrants of distress.

(2) The wearing apparel and bedding of a person and his family, and, to the value of five pounds, the tools and implements of his trade, shall not be taken under a distress issued by a court of summary jurisdiction.

(3) Where a person is adjudged by the conviction of a court of summary jurisdiction, or in the case of a sum not a civil debt by an order of such court, to pay any sum of money, and on default of payment of such sum a warrant of distress is authorized to be issued, and it appears to the court of summary jurisdiction to whom application is made to issue such warrant that such person has no goods whereon to levy the distress, or that in the event of a warrant of distress being issued his

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Sect. 21. Note.

As to the evidence on which justices should act in refusing to issue a warrant of distress, see *In re Anthers*, 53 J. P. 117; and as to their discretion in issuing or not issuing the warrant or postponing it, see *Reg.* v. *German*, 61 L. J. M. C. 43; 56 J. P. 358; *Reg.* v. *Paget*, 8 Q. B. D. 151; 51 L. J. M. C. 9; 45 L. T. 794; 30 W. R. 336; 46 J. P. 151.

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goods will be insufficient to satisfy the money payable by him, or that the levy of distress will be more injurious to him or his family than imprisonment, such court, instead of issuing such warrant of distress, may, if it think fit, order the said person on non-payment of the said sum to be imprisoned for any period not exceeding the period for which he is liable under such conviction or order to be imprisoned in default of sufficient distress.

(4) Where on application to a court of summary jurisdiction to issue a warrant for committing a person to prison for non-payment of a sum adjudged to be paid by a conviction of any court of summary jurisdiction, or in the case of a sum not a civil debt by an order of such court, or for default of sufficient distress to satisfy any such sum, it appears to the court to whom the application is made that either by payment of part of the said sum, whether in the shape of instalments or otherwise, or by the net proceeds of the distress, the amount of the sum so adjudged has been reduced to such an extent that the unsatisfied balance, if it had constituted the original amount adjudged to be paid by the conviction or order, would have subjected the defendant to a maximum term of imprisonment less than the term of imprisonment to which he is liable under such conviction or order, the court shall, by its warrant of commitment, revoke the term of imprisonment, and order the defendant to be imprisoned for a term not exceeding such less maximum term, instead of for the term originally mentioned in the conviction or order.

*Supplemental Provisions.*

Register of court of summary jurisdiction.

XXII.—(1) The clerk of every court of summary jurisdiction shall keep a register of the minutes or memorandums of all the convictions and orders of such court, and of such other proceedings as are directed by a rule under this Act to be registered, and shall keep the same with such particulars and in such form as may be from time to time directed by a rule under this Act.

(2) Such register, and also any extract from such register certified by the clerk of the court keeping the same to be a true extract, shall be *primâ facie* evidence of the matters entered therein for the purpose of informing a court of summary jurisdiction acting for the same county, borough, or place as the court whose convictions, orders and proceedings are entered in the register; but nothing in this section shall dispense with the legal proof of a previous conviction for an offence when required to be proved against a person charged with another offence.

(3) The register kept by any particular clerk, in pursuance of this section, may be distinguished by the name of his petty sessional division, or by such name or description as may be directed by a rule under this Act.

(4) The entries relating to each minute, memorandum, or proceeding shall be either entered or signed by the justice or one of the justices constituting the court by or before whom the conviction or order or proceeding referred to in the minute or memorandum was made or had, except that when a court of summary jurisdiction is not a petty sessional court a return signed as aforesaid, and made and entered in the register in manner provided by a rule under this Act, shall suffice.

(5) Every sum paid to the clerk of a court of summary jurisdiction in accordance with the Summary Jurisdiction Acts, and the appropriation of such sum, shall be entered and authenticated in such manner as may be from time to time directed by a rule under this Act.

(6) Every such register shall be open for inspection, without fee or reward, by any justice of the peace, or by any person authorized in that behalf by a justice of the peace, or by a Secretary of State.

Regulations as to securities taken in pursuance of Act.

XXIII.—(1) A person shall give security under this Act, whether as principal or surety, either by the deposit of money with the clerk of the court, or by an oral or written acknowledgment of the undertaking or condition by which and of the sum for which he is bound, in such manner and form as may be for the time being directed by any rule made in pursuance of this Act, and evidence of such security may be provided by entry thereof in the register under this Act of proceedings of a court of summary jurisdiction or otherwise, as may be directed by such rule.

(2) Any sum which may become due in pursuance of a security under this Act from a surety shall be recoverable summarily, in manner directed by this Act with respect to a civil debt, on complaint by a constable or by the clerk of the court directing such security to be given, or by some other person authorized for the purpose by that court or any other court of summary jurisdiction for the same county, borough, or place.

(3) A court of summary jurisdiction may enforce payment of any sum due by a principal in pursuance of a security under this Act which appears to such court to be forfeited, in like manner as if that sum were adjudged by a court of summary jurisdiction to be paid as a fine which the statute provides no mode of enforcing, if the security was given for a sum adjudged by a conviction, and in any other case in like manner as if it were a sum adjudged by a court of summary jurisdiction to be paid as a civil debt; provided that before a warrant of distress for the sum is issued, such notice of the forfeiture shall be served on the said principal, and in such manner as may be directed for the time being by rules under this Act, and subject thereto by the court authorizing the security, or by any court to whom application is made for the issue of the warrant.

(4) Any sum paid by a surety on behalf of his principal in

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respect of a security under this Act, together with all costs, charges and expenses incurred by such surety in respect of that security, shall be deemed a civil debt due to him from the principal, and may be recovered before a court of summary jurisdiction in manner directed by this Act with respect to the recovery of a civil debt which is recoverable summarily.

(5) Where security is given under this Act for payment of a sum of money, the payment of such sum shall be enforced by means of such security in substitution for other means of enforcing such payment.

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Cost of prosecution of indictable offences dealt with summarily.

XXVIII. Where an indictable offence (the expenses of the prosecution of which would otherwise have been payable out of the local rate) is dealt with summarily in pursuance of this Act by a court of summary jurisdiction, the expenses of the prosecution of such offence shall be payable in manner provided by this section.

The court dealing summarily with any such indictable offence may, if it seem fit, grant to any person who preferred the charge, or appeared to prosecute or give evidence, a certificate of the amount of the compensation which the court may deem reasonable for his expenses, trouble and loss of time therein, subject nevertheless, to such regulations as may be from time to time made by a Secretary of State with respect to the payment of costs in the case of indictable offences; and the amount named in the certificate may include the fees payable to the clerk of the court of summary jurisdiction, and the fees payable to the clerk of the peace for filing the conviction, depositions and other documents required to be filed by him under this Act, and such other expenses as are by law payable when incurred before a commitment for trial; and every certificate so granted shall have the effect of an order of court for the payment of the expenses of a prosecution for felony, made in pursuance of the Act of the seventh year of King George the Fourth, chapter sixty-four, intituled "An Act for improving the Administration of Criminal Justice in England," and the Acts amending the same, and the amount named in such certificate shall be paid in like manner as the expenses specified in such order would have been paid.

Power of the Lord Chancellor to make rules.

XXIX.—(1) The Lord High Chancellor of Great Britain may from time to time make, and when made, rescind, alter and

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Note.

This section takes the place of the repealed sect. 14 of the Criminal Justice Act, 1855 (18 & 19 Vict. c. 126), which was made applicable to the prosecution of a casual pauper by the Pauper Inmates Discharge and Regulation Act, 1871 (34 & 35 Vict. c. 108), s. 7.

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Note.

Rules and forms were issued under this section dated July 16th, 1886.

By the S. J. Act, 1884 (47 & 48 Vict. c. 43), s. 12, a form

add to, rules in relation to the following matters, or any of them, that is to say, Sect. 29.

(*a.*) The giving security under this Act; and

(*b.*) The forms to be used under the Summary Jurisdiction Acts, or any of them, including the forms of any recognizance mentioned in this Act; and

(*c.*) The costs and charges payable under distress warrants issued by a court of summary jurisdiction; and

(*d.*) Adapting to the provisions of this Act and of the Summary Jurisdiction Act, 1848, the procedure before courts of summary jurisdiction under any Act passed before the Summary Jurisdiction Act, 1848; and 11 & 12 Vict. c. 43.

(*e.*) Regulating the form of the account to be rendered by clerks of courts of summary jurisdiction of fines, fees and other sums received by them, and providing for the discontinuance of any existing account rendered unnecessary by the aforesaid account; and 11 & 12 Vict. c. 43.

(*f.*) Any other matter in relation to which rules are authorized or required to be made under or for the purpose of carrying into effect this Act.

(2) The Lord Chancellor may, in the exercise of the power given him by this section, annul, alter, or add to any forms contained in the Summary Jurisdiction Act, 1848, or any forms relating to summary proceedings contained in any other Act. 11 & 12 Vict. c. 43.

(3) Any rule purporting to be made in pursuance of this section shall be laid before both Houses of Parliament as soon as may be after it is made, if Parliament be then sitting, or if not then sitting, within one month after the commencement of the then next session of Parliament, and shall be judicially noticed.

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## PART II.

### *Amendment of Procedure.*

XXXI. Where any person is authorized . . . to appeal from the conviction or order of a court of summary jurisdiction to a Procedure on appeal to general or quarter sessions.

authorized by any rules for the time being in force in pursuance of this section shall be of the same effect as if it was contained in the S. J. Act, 1848 (11 & 12 Vict. c. 43), or in any other Act to which the form is made applicable. Sect. 29. Note.

This section is made applicable to all appeals authorized by Acts prior to this Act (S. J. Act, 1884 (47 & 48 Vict. c. 43), s. 6). It does not, however, apply to appeals under the Lunacy Act, 1890 (53 Vict. c. 5) (see sect. 313 of that Act); nor does it apply to appeals against poor rates, nor to orders for Sect. 31. Note.

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court of general or quarter sessions, he may appeal to such court, subject to the conditions and regulations following:

(1) The appeal shall be made to the prescribed court of general or quarter sessions, or if no court is prescribed, to the next practicable court of general or quarter sessions having jurisdiction in the county, borough, or place for which the said court of summary jurisdiction acted, and holden not less than fifteen days after the day on which the decision was given upon which the conviction or order was founded; and

(2) The appellant shall, within the prescribed time, or if no time is prescribed within seven days after the day on which the said decision of the court was given, give notice of appeal by serving on the other party and on the clerk of the said court of summary jurisdiction notice in writing of his intention to appeal, and of the general grounds of such appeal; and

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removal of the poor which are excepted by the S. J. Act, 1848, s. 35 (see *Reg.* v. *Somersetshire JJ.*, 22 Q. B. D. 625; 58 L. J. M. C. 188; 60 L. T. 834; 37 W. R. 492; 53 J. P. 470; where it was held that on an appeal against a removal order the seven days' notice of appeal prescribed by this section was not required).

Service of notice of appeal on the solicitor who acted for the defendant before the justices, but was not employed or retained to act for the defendant on the appeal, was held not to be service on the "other party," although the solicitor had accepted service, but the defendant had not received the notice within the seven days (*Reg.* v. *Oxford JJ.*, [1893] 2 Q. B. 149; 62 L. J. M. C. 156; 69 L. T. 368; 41 W. R. 615; 57 J. P. 712). It is sufficient to address the notice to the clerk to the justices (*Reg.* v. *Essex JJ.*, [1892] 1 Q. B. 490; 61 L. J. M. C. 120; 66 L. T. 677; 40 W. R. 446; 56 J. P. 375). Where two notices of appeal had been given, and the appellant elected to proceed upon the second notice, which was found to be bad for want of the prescribed recognizance, it was held that the appellant, notwithstanding his previous election, was entitled to proceed upon the first notice (*Reg.* v. *Wolverhampton, Recorder of*, 35 W. R. 650). The quarter sessions are exclusive judges of the sufficiency of the grounds of appeal (*Reg.* v. *Durham JJ.*, [1891] 55 J. P. 277).

The recognizance may be entered into before any court of summary jurisdiction having before it the proper materials for fixing the amount of the recognizance, and need not be entered into before the court by whom the conviction or order was made, nor before a court acting for the same county, borough, or place (*Reg.* v. *Durham JJ.*, [1895] 1 Q. B. 801; 64 L. J. M. C. 187; 72 L. T. 465; 43 W. R. 423; 59 J. P. 264). The notice of appeal must be served before the recognizances are entered into, otherwise the appeal should be dismissed (*Reg.* v. *Cheshire JJ.*, [1896] 60 J. P. 585; *Reg.* v. *Anglesey JJ.*, [1892] 2 Q. B. 29; 61 L. J. M. C. 143; 56 J. P. 552).

The quarter sessions has power to award costs, although they may be without jurisdiction to hear the appeal (*Reg.* v. *Steel*, 2 Q. B. D. 42; 46 L. J. M. C. 1; 35 L. T. (N. S.) 534; 25 W. R. 34; 41 J. P. 245; *Pyne* v. *Mansfield*, 45 J. P. 130).

(3) The appellant shall, within the prescribed time, or if no time is prescribed within three days after the day on which he gave notice of appeal, enter into a recognizance before a court of summary jurisdiction, with or without a surety or sureties as that court may direct, conditioned to appear at the said sessions and to try such appeal, and to abide the judgment of the court of appeal thereon, and to pay such costs as may be awarded by the court of appeal, or the appellant may, if the court of summary jurisdiction before whom the appellant appears to enter into a recognizance think it expedient, instead of entering into a recognizance, give such other security, by deposit of money with the clerk of the court of summary jurisdiction or otherwise, as that court deem sufficient; and

(4) Where the appellant is in custody, the court of summary jurisdiction before whom the appellant appears to enter into a recognizance may, if the court think fit, on the appellant entering into such recognizance or giving such other security as aforesaid, release him from custody; and

(5) The court of appeal may adjourn the hearing of the appeal, and upon the hearing thereof may confirm, reverse, or modify the decision of the court of summary jurisdiction, or remit the matter, with the opinion of the court of appeal thereon, to a court of summary jurisdiction acting for the same county, borough, or place as the court by whom the conviction or order appealed against was made, or may make such other order in the matter as the court of appeal may think just, and may by such order exercise any power which the court of summary jurisdiction might have exercised, and such order shall have the same effect, and may be enforced in the same manner, as if it had been made by the court of summary jurisdiction. The court of appeal may also make such order as to costs to be paid by either party as the court may think just; and

(6) Whenever a decision is not confirmed by the court of appeal, the clerk of the peace shall send to the clerk of the court of summary jurisdiction from whose decision the appeal was made, for entry in his register, and also indorse on the conviction or order appealed against, a memorandum of the decision of the court of appeal, and whenever any copy or certificate of such conviction or order is made, a copy of such memorandum shall be added thereto, and shall be sufficient evidence of the said decision in every case where such copy or certificate would be sufficient evidence of such conviction or order; and

(7) Every notice in writing required by this section to be

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given by an appellant shall be in writing signed by him, or by his agent on his behalf, and may be transmitted as a registered letter by the post in the ordinary way, and shall be deemed to have been served at the time when it would be delivered in the ordinary course of the post.

Application of provisions respecting appeals to quarter sessions to appeals under prior Acts.

XXXII. . . . Where any past Act, so far as unrepealed, prescribes that any appeal from the conviction or order of a court of summary jurisdiction shall be made to the next court of general or quarter sessions, such appeal may be made to the next practicable court of general or quarter sessions having jurisdiction in the county, borough, or place for which the court of summary jurisdiction acted, and held not less than fifteen days after the day on which the decision was given upon which the conviction or order appealed against was founded.

Appeal from court of summary jurisdiction by special case.

XXXIII.—(1) Any person aggrieved who desires to question a conviction, order, determination, or other proceeding of a court of summary jurisdiction, on the ground that it is erroneous

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The earlier part of this section is repealed, and replaced by sect. 6 of the S. J. Act, 1884 (47 & 48 Vict. c. 43).

Note.

This section does not apply to appeals from removal orders. (See *Reg.* v. *Somersetshire JJ.*, 22 Q. B. D. 625, *supra*, p. 1512.) But ever since the Poor Law Procedure Act, 1848 (11 & 12 Vict. c. 31), such appeals, though required by the Poor Relief Act, 1662 (13 & 14 Car. 2, c. 12), to be brought to the next quarter sessions, have been held to be properly brought to the next practicable quarter sessions after service of the order. (See *Reg.* v. *Surrey JJ.*, 3 D. & L. 343; 2 N. S. C. 155; 10 Jur. 72, *ante*, Vol. I., p. 155.)

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Note.

Justices stating a case under 20 & 21 Vict. c. 43, may be taken to have stated it under all their powers, including those conferred by this section (*Rochdale Building Society* v. *Rochdale, Mayor, &c., of*, 51 J. P. 134).

The rule applicable to the statement of a special case under this section is rule 18, July 16th, 1886: "An application to a court of summary jurisdiction under the above section shall be made in writing, and a copy left with the clerk of the court, and may be made at any time within seven clear days from the date of the proceeding to be questioned, and the case shall be stated within three calendar months after the date of the application, and after the recognizance shall have been entered into." Under this rule written application must be made to each of the justices who formed the court, in addition to leaving a copy of the application with the clerk of the court, otherwise the court has no jurisdiction to state a case (*South Staffordshire Waterworks Co.* v. *Stone*, 19 Q. B. D. 168; 56 L. J. M. C. 122; 57 L. T. 368; 36 W. R. 76; 51 J. P. 662; *Lockhart* v. *St. Albans, Mayor, &c., of*, 21 Q. B. D. 188; 57 L. J. M. C. 118; 36 W. R. 801; 52 J. P. 421). The copy of the application must be served on the justices' clerk within seven days (*Reg.* v. *Knill*, 57 J. P. 277). Where the application was served on two only out of five justices who heard the case, and the case was stated by those two only, the Q. B. D. declined to hear the case (*Westmore* v. *Pain*, [1891] 1 Q. B. 482; 60 L. J. M. C. 89; 64 L. T. 55; 39 W. R. 463;

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in point of law, or is in excess of jurisdiction, may apply to the court to state a special case setting forth the facts of the case and the grounds on which the proceeding is questioned, and if the court decline to state the case, may apply to the High Court of Justice for an order requiring the case to be stated.

(2) The application shall be made and the case stated within such time and in such manner as may be from time to time directed by rules under this Act, and the case shall be heard and determined in manner prescribed by rules of court made in pursuance of the Supreme Court of Judicature Act, 1875, and the Acts amending the same; and, subject as aforesaid, the Act of the session of the twentieth and twenty-first years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to improve the Administration of the Law so far as respects Summary Proceedings before Justices of the Peace," shall, so far as it is applicable, apply to any special case stated under this section, as if it were stated under that Act:

38 & 39 Vict. c. 77.

Provided that nothing in this section shall prejudice the statement of any special case under that Act.

Summary orders.

XXXIV.—(1) Where a power is given by any future Act to a court of summary jurisdiction of requiring any person to do or abstain from doing any act or thing other than the payment of money, or of requiring any act or thing to be done or left undone other than the payment of money, and no mode is prescribed of enforcing such requisition, the court may exercise such power by an order or orders, and may annex to any such order any conditions as to time or mode of action which the court may think just, and may suspend or rescind any such order on such undertaking being given or condition be performed as the court may think just, and generally may make such arrangement for carrying into effect such power as to the court seems meet.

(2) A person making default in complying with an order of

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55 J. P. 440). The rule that the case shall be stated within three months is not a condition precedent, but is directory only; and if, through no default of the appellant, the justices do not state the case within the three months, the K. B. D. has nevertheless jurisdiction to hear the case (*Hughes* v. *Wavertree Local Board*, 58 J. P. 654).

If a point of law arises upon an application for a distress warrant for non-payment of poor rates, the court may be required to state a special case thereon under this section, notwithstanding the provisions of sect. 10 of the S. J. Act, 1884 (47 & 48 Vict. c. 43), inasmuch as stating a case is not part of the procedure for the recovery of a rate within the meaning of that section (*Fourth City Mutual Building Society* v. *West Ham*, [1892] 1 Q. B. 661; 56 J. P. 440; *Reg.* v. *London, Lord Mayor, &c., of*, 57 L. T. 491; 52 J. P. 70). But a justice to whom an application is made by a relieving officer under sect. 299 of the Lunacy Act, 1890 (53 & 54 Vict. c. 5), for a direction to seize property of a lunatic chargeable to the union in order to pay the expenses of his maintenance is not acting as a court of summary jurisdiction, and has no power to state a special case (*In re Bethell*, [1899] W. N. 47).

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a court of summary jurisdiction in relation to any matter arising under any future Act other than the payment of money, shall be punished in the prescribed manner, or if no punishment is prescribed, may in the discretion of the court be ordered to pay a sum (to be enforced as a civil debt recoverable summarily under this Act) not exceeding one pound for every day during which he is in default, or to be imprisoned until he has remedied his default:

Provided that a person shall not, for non-compliance with the requisition of a court of summary jurisdiction, whether made by one or more orders, to do or abstain from doing any act or thing, be liable under this section to imprisonment for a period or periods amounting in the aggregate to more than two months, or to the payment of any sums exceeding in the aggregate twenty pounds.

Recovery of civil debts in court of summary jurisdiction.

XXXV. Any sum declared by this Act, or by any future Act, to be a civil debt, which is recoverable summarily, or in respect of the recovery of which jurisdiction is given by such Act to a court of summary jurisdiction, shall be deemed to be

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See sect. 6, *supra*, and sect. 47, *infra*, as to what is a civil debt.

Note.

Since the repeal by the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 36, of the penalties imposed by the Poor Relief Act, 1601 (43 Eliz. c. 2), s. 7, for non-compliance with a maintenance order, neglect to make the payments is no longer a criminal offence, and the unpaid instalments are a civil debt only; and an order of justices for the payments due under a maintenance order cannot be enforced by imprisonment in default of distress, unless it be proved that the person in default has since the date of the latter order had means to pay the sum in respect of which he has made default (*In re Gamble*, [1899] 1 Q. B. 305; 68 L. J. Q. B. 195).

The provisions of the Debtors Act, 1869, referred to in this section, are as follows:—

32 & 33 Vict. c. 62, s. 5.

"Subject to the provisions herein-after mentioned, and to the prescribed rules, any court may commit to prison for a term not exceeding six weeks, or until payment of the sum due, any person who makes default in payment of any debt or instalment of any debt due from him in pursuance of any order or judgment of that or any other competent court: Provided—

"(1) That the jurisdiction by this section given of committing a person to prison shall, in the case of any court other than the superior courts of law and equity, be exercised only subject to the following restrictions; that is to say,

"(*a.*) Be exercised only . . . by an order made in open court, and showing on its face the ground on which it is issued. . . .

"(2) That such jurisdiction shall only be exercised where it is proved to the satisfaction of the court that the person making default either has or has had since the date of the order or judgment the means to pay the sum in respect of which he has made default, and has refused or neglected, or refuses or neglects, to pay the same. Proof of the means of the person making default may be given in such manner

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a sum for payment of which a court of summary jurisdiction has authority by law to make an order on complaint in pursuance of the Summary Jurisdiction Acts: Provided as follows:

(1) A warrant shall not be issued for apprehending any person for failing to appear to answer any such complaint; and

(2) An order made by a court of summary jurisdiction for the payment of any such civil debt as aforesaid or of any instalment thereof, or for the payment of any costs in the matter of any such complaint, whether ordered to be paid by the complainant or defendant, shall not, in default of distress or otherwise, be enforced by imprisonment, unless it be proved to the satisfaction of such court or of any other court of summary

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as the court thinks just, and for the purposes of such proof the debtor, and any witnesses, may be summoned and examined upon oath according to the prescribed rules. For the purposes of this section any court may direct any debt due from any person in pursuance of any order or judgment of that or any other competent court to be paid by instalments, and may from time to time rescind or vary such order. No imprisonment under this section shall operate as a satisfaction or extinguishment of any debt or demand or cause of action, or deprive any person of any right to take out execution against the lands, goods, or chattels of the person imprisoned, in the same manner as if such imprisonment had not taken place. Any person imprisoned under this section shall be discharged out of custody upon a certificate, signed in the prescribed manner, to the effect that he has satisfied the debt or instalment of a debt in respect of which he was imprisoned, together with the prescribed costs (if any)."

A debtor cannot be committed more than once for payment of the same debt, but there may be a separate committal for non-payment of each instalment when the debt is ordered to be paid by instalments (*Evans* v. *Willes*, 45 L. J. Q. B. 420; 24 W. R. 883; 40 J. P. 552).

A county court judge sat for the purpose of hearing summonses for committal, and for all business except jury cases, in a small room which he used at other times as his private room; it communicated with a larger room, where was the usual raised bench and jury box, by a door which was kept open during the hearing of these summonses, and the names of the parties were, if necessary, called in the larger room. The public had access to the smaller room as well as to the larger. It was held that orders for committal made under these circumstances were not made in open court, and could not be enforced (*Kenyon* v. *Eastwood*, 57 L. J. Q. B. 455).

Where upon an application to commit a defendant for non-payment of a debt of 20*l*., the judge made an order to commit the defendant, but directed that the warrant should be suspended if the debtor paid instalments of 4*l*. a month, the first payment to be made in fourteen days, it was held that the order was in reality an order for commitment in respect of the past default in payment of the 20*l*., and not an anticipatory order in respect of any future default, and that the order was valid (*Stonor* v. *Fowle*, 13 App. Cas. 20; 57 L. J. Q. B. 387; 58 L. T. (N. S.) 1; 36 W. R. 743; 52 J. P. 228).

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jurisdiction for the same county, borough, or place, that the person making default in payment of such civil debt, instalment, or costs either has, or has had since the date of the order, the means to pay the sum in respect of which he has made default, and has refused or neglected, or refuses or neglects, to pay the same, and in any such case the court shall have the same power of imprisonment as a county court would for the time being have under the Debtors Act, 1869, for default of payment if such debt had been recovered in that court, but shall not have any greater power.

32 & 33 Vict. c. 62.

Proof of the means of the person making default may be given in such manner as the court to whom application is made for the commitment to prison think just, and for the purposes of such proof the person making default and any witnesses may be summoned and examined on oath according to the rules for the time being in force under this Act in relation to the summoning and examination of witnesses, or if no such rules are in force, to the rules for the like purpose made in pursuance of the Employers and Workmen Act, 1875.

38 & 39 Vict. c. 90.

Summons of witness when out of the jurisdiction of a court of summary jurisdiction.

XXXVI. Where a court of summary jurisdiction for any county, borough, or place would have power to issue a summons to a witness, if such witness were within the said county, borough, or place, and such witness is believed to be within some other county, borough, or place in England, such court may issue a summons to such witness in like manner as if such witness were within the jurisdiction of such court; and any court of summary jurisdiction for the county, borough, or place in which the witness may be, or be believed to be, may, on proof on oath, or such solemn declaration as provided by this Act, of the signature to the summons, indorse the summons and the witness, on service of the summons so indorsed, and on payment or tender of a reasonable amount for his expenses, shall obey the summons, and in default shall be liable to be apprehended or otherwise proceeded against either in the county, borough, or place in which the summons was issued, or in that in which the witness may happen to be, in manner directed by the Summary Jurisdiction Act, 1848, as if such witness had been duly summoned by a court of summary jurisdiction for the county, borough, or place in which such witness is apprehended or proceeded against.

11 & 12 Vict. c. 43.

Summons or warrant not avoided by death of justice, &c.

XXXVII. A warrant or summons issued by a justice of the peace under the Summary Jurisdiction Act, 1848, or any other Act, whether past or future, or otherwise, shall not be avoided by reason of the justice who signed the same dying or ceasing to hold office.

11 & 12 Vict. c. 43.

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Note

The provisions of this Act as to proof by declaration are contained in sect. 41, *infra*.

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Bail of person arrested without a warrant.

XXXVIII. A person taken into custody for an offence without a warrant shall be brought before a court of summary jurisdiction as soon as practicable after he is so taken into custody, and if it is not or will not be practicable to bring him before a court of summary jurisdiction within twenty-four hours after he is so taken into custody, a superintendent or inspector of police, or other officer of police of equal or superior rank, or in charge of any police station, shall inquire into the case, and, except where the offence appears to such superintendent, inspector or officer to be of a serious nature, shall discharge the prisoner, upon his entering into a recognizance, with or without sureties, for a reasonable amount, to appear before some court of summary jurisdiction at the day, time, and place named in the recognizance.

Provisions as to proceedings, &c.

XXXIX. The following enactments shall apply to proceedings before courts of summary jurisdiction; (that is to say,)

1. The description of any offence in the words of the Act, or any order, bye-law, regulation, or other document creating the offence, or in similar words, shall be sufficient in law; and
2. Any exception, exemption, proviso, excuse, or qualification, whether it does or does not accompany in the same section the description of the offence in the Act, order, bye-law, regulation, or other document creating the offence, may be proved by the defendant, but need not be specified or negatived in the information or complaint, and, if so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the informant or complainant; and
3. A warrant of commitment shall not be held void by reason of any defect therein, if it be therein alleged that the offender has been convicted or ordered to do or abstain from doing any act or thing required to be done or left undone, and there is a good and valid conviction or order to sustain the same; and
4. A warrant of distress shall not be deemed void by reason only of any defect therein, if it be therein alleged that a conviction or order has been made, and there is a good and valid conviction or order to sustain the same, and a person acting under a warrant of distress shall not be deemed a trespasser from the beginning by reason only of any defect in the warrant, or of any irregularity in the execution of the warrant, but this

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Note.

Borough constables have wider powers of taking bail than are conferred by the above section. See the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 227; see also the S. J. Act, 1884 (47 & 48 Vict. c. 43), s. 9, which provides that nothing in this section shall be taken to have repealed anything in sect. 227 of the Municipal Corporations Act, 1882.

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enactment shall not prejudice the right of any person to satisfaction for any special damage caused by any defect in or irregularity in the execution of a warrant of distress, so however that if amends are tendered before action brought, and if the action is brought are paid into court in the action, and the plaintiff does not recover more than the sum so tendered and paid into court, the plaintiff shall not be entitled to any costs incurred after such tender, and the defendant shall be entitled to costs, to be taxed as between solicitor and client; and

5. All forfeitures not pecuniary which are incurred in respect of an offence triable by a court of summary jurisdiction, or which may be enforced by a court of summary jurisdiction, may be sold or disposed of in such manner as the court having cognizance of the case or any other court of summary jurisdiction for the same county, borough, or place may direct, and the proceeds of such sale shall be applied in the like manner as if the proceeds were a fine imposed under the Act on which the proceeding for the forfeiture is founded.

Case from quarter sessions without *certiorari*.

XL. A writ of *certiorari* or other writ shall not be required for the removal of any conviction, order, or other determination, in relation to which a special case is stated by a court of general or quarter sessions for obtaining the judgment or determination of a superior court.

Proof by declaration of service of process, handwriting, &c.

XLI. In a proceeding within the jurisdiction of a court of summary jurisdiction, without prejudice to any other mode of proof, service on a person of any summons, notice, process, or document required or authorized to be served, and the handwriting and seal of any justice of the peace or other officer or person on any warrant, summons, notice, process, or document, may be proved by a solemn declaration taken before a justice of the peace, or before a commissioner to administer oaths in the Supreme Court of Judicature, or before a clerk of the peace or a registrar of a county court; and any declaration purporting to be so taken shall, until the contrary is shown, be sufficient proof of the statements contained therein, and shall be received in evidence in any court or legal proceeding, without proof of the signature or of the official character of the person or persons taking or signing the same; and the fee, if any, for taking such declaration shall be such sum, not exceeding one shilling, as may

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Note.

The practice now is that the clerk of the peace on receiving notice from the party requiring it should send up the case to the Crown office (*Clark* v. *Alderbury Union*, 29 W. R. 334). As to the recognizances which must be entered into by the party proceeding upon a special case, see the Crown Office Rules, Nos. 36—38.

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Note.

See S. J. (Process) Act, 1881 (44 & 45 Vict. c. 24), for service of process of English court in Scotland, and *vice versâ*.

be directed by rules made in pursuance of this Act, and any such fee shall be costs in the matter or proceeding to which it relates. Sect. 41.

The declaration may be in the form provided by a rule under this Act, and if any declaration made under this section is untrue in any material particular, the person wilfully making such false declaration shall be guilty of wilful and corrupt perjury.

Recognizances taken out of court.

XLII. When a court of summary jurisdiction has fixed, as respects any recognizance, the amount in which the principal and the sureties (if any) are to be bound, the recognizance, notwithstanding anything in this or any other Act, need not be entered into before such court, but may, subject to any rules made in pursuance of this Act, be entered into by the parties before any other court of summary jurisdiction or before any clerk of a court of summary jurisdiction, or before a superintendent or inspector of police or other officer of police of equal or superior rank or in charge of any police station, or where any of the parties is in prison, before the governor or other keeper of such prison; and thereupon all the consequences of law shall ensue, and the provisions of this Act with respect to recognizances taken before a court of summary jurisdiction shall apply, as if the recognizance had been entered into before the said court as heretofore by law required.

Procedure on the execution of distress warrants.

XLIII. The following regulations shall be enacted with respect to warrants of distress issued by a court of summary jurisdiction:

(1) A warrant of distress shall be executed by or under the direction of a constable; and

(2) Save so far as the person against whom the distress is levied otherwise consents in writing, the distress shall be sold by public auction, and five clear days at the least should intervene between the making of the distress and the sale, and where written consent is so given as aforesaid the sale may be made in accordance with such consent; and

(3) Subject as aforesaid, the distress shall be sold within the period fixed by the warrant, and if no period is so fixed then within the period of fourteen days from the date of the making of the distress, unless the sum for which the warrant was issued, and also the charges of taking and keeping the said distress, are sooner paid; and

(4) Subject to any directions to the contrary given by the warrant of distress, where the distress is levied on household goods the goods shall not, except with the consent in writing of the person against whom the distress is levied, be removed from the house until the day of sale, but so much of the goods shall be impounded as are in the opinion of the person executing the warrant

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The provisions of this section do not apply to the execution of distress warrants for poor rates. (See note to sect. 47, *infra*.) As to what goods may be distrained, see the S. J. Act, 1879 (43 & 44 Vict. c. 49), s. 21.

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sufficient to satisfy the distress, by affixing to the articles impounded a conspicuous mark; and any person removing any goods so marked, or defacing or removing the said mark, shall on summary conviction be liable to a fine not exceeding five pounds; and

(5) Where a person charged with the execution of a warrant of distress wilfully retains from the produce of any goods sold to satisfy the distress, or otherwise exacts, any greater costs and charges than those to which he is for the time being entitled by law, or makes any improper charge, he shall be liable on summary conviction to a fine not exceeding five pounds; and

(6) A written account of the costs and charges incurred in respect of the execution of any warrant of distress shall be sent by the constable charged with the execution of the warrant as soon as practicable to the clerk of the court of summary jurisdiction issuing the warrant; and it shall be lawful for the person upon whose goods the distress was levied, within one month after the levy of the distress, to inspect such account without fee or reward at any reasonable time to be appointed by the court, and to take a copy of such account; and

(7) A constable charged with the execution of a warrant of distress shall cause the distress to be sold, and may deduct out of the amount realized by such sale all costs and charges actually incurred in effecting such sale, and shall render to the owner the overplus, if any, after retaining the amount of the sum for which the warrant was issued and the proper costs and charges of the execution of the warrant; and

(8) Where a person pays or tenders to the constable charged with the execution of a warrant of distress the sum mentioned in such warrant, or produces the receipt for the same of the clerk of the court of summary jurisdiction issuing the warrant, and also pays the amount of the costs and charges of such distress up to the time of such payment or tender, the constable shall not execute the warrant.

* * * * *

General provisions as to local jurisdiction of courts of summary jurisdiction.

XLVI. For the purposes of the trial of any offence punishable on summary conviction under this Act or under any other Act, whether past or future, the following provisions shall have effect—

(1) Where the offence is committed in any harbour, river, arm of the sea, or other water, tidal or other, which runs between or forms the boundary of the jurisdiction of two or more courts of summary jurisdiction, such offence may be tried by any one of such courts.

(2) Where the offence is committed on the boundary of the jurisdiction of two or more courts of summary jurisdiction, or within the distance of five hundred yards of any such boundary,

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or is begun within the jurisdiction of one court and completed within the jurisdiction of another court of summary jurisdiction, such offence may be tried by any one of such courts.

(3) Where the offence is committed on any person or in respect of any property in or upon any carriage, cart, or vehicle whatsoever employed in a journey, or on board any vessel whatsoever employed in a navigable river, lake, canal, or inland navigation, the person accused of such offence may be tried by any court of summary jurisdiction through whose jurisdiction such carriage, cart, vehicle, or vessel passed in the course of the journey or voyage during which the offence was committed; and where the side, bank, centre, or other part of the highway, road, river, lake, canal, or inland navigation along which the carriage, cart, vehicle, or vessel passed in the course of such journey or voyage is the boundary of the jurisdiction of two or more courts of summary jurisdiction, a person may be tried for such offence by any one of such courts.

(4) Any offence which is authorized by this section to be tried by any court of summary jurisdiction may be dealt with, heard, tried, determined, adjudged, and punished as if the offence had been wholly committed within the jurisdiction of such court.

## PART III.

## DEFINITIONS, SAVINGS, AND REPEAL OF ACTS.

### *Special Definitions.*

Application of Act to sums leviable by distress or payable under order. 11 & 12 Vict. c. 43.

XLVII. The provisions of this Act with respect to a sum adjudged to be paid by an order shall apply, so far as circumstances admit, to a sum in respect of which a court of summary jurisdiction can issue a warrant of distress without an information or complaint under the Summary Jurisdiction Act, 1848, in like manner as if the said sum were a civil debt; and the provisions of this Act with respect to the hearing, trying, determining, and adjudging of a case by a court of summary jurisdiction when sitting in open court shall apply to the hearing, trying, determining, and adjudging by a court of summary jurisdiction of an application for the issue of any such warrant.

The provisions of this Act with respect to the period of imprisonment to be imposed in respect of the non-payment of a sum of money adjudged to be paid by a conviction or in

Sect. 47.

Note.

This section does not apply to the issue of a distress warrant for poor rates (see sect. 6, *supra*, and sect. 10 of the S. J. Act, 1884 (47 & 48 Vict. c. 43), and *Reg.* v. *Price*, 5 Q. B. D. 300; 49 L. J. M. C. 49; 42 L. T. 439; 28 W. R. 615; 44 J. P. 248).

Costs ordered to be paid to a defendant when a case is dismissed are recoverable without information or complaint under the S. J. Act, 1848. Thus, where an information is dismissed by justices, and an order for costs is made against the complainant, if no sufficient distress is found, and it is proved that the complainant has, or has had since the date of the order, means to pay, such order may be enforced by committal (*Reg.* v. *London, Lord Mayor of*, [1893] 2 Q. B. 146; 63 L. J. M. C. 29; 42 W. R. 159; 57 J. P. 633).

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respect of the default of a sufficient distress to satisfy any such sum, shall apply to the period of imprisonment to be imposed in respect of the non-payment of any sum of money adjudged to be paid by an order of a court of summary jurisdiction or in respect of the default of a sufficient distress to satisfy any such sum, where such sum is not a civil debt nor enforceable as a civil debt.

As to clerk of court of summary jurisdiction.

40 & 41 Vict. c. 43.

XLVIII. Anything required by this Act to be done by to or before a clerk of a court of summary jurisdiction shall be done by to or before the salaried clerk to a petty sessional division under section five of the Justices Clerks Act, 1877, and where there is more than one such clerk, by either of such clerks or by such of those clerks as a court of summary jurisdiction for such division from time to time direct; and if any other person acts as the clerk to a court of summary jurisdiction acting in and for such division, such person, subject to any rules made under this Act, shall be deemed for the purposes of this Act to have acted as the deputy of such salaried clerk and shall make a return to the said salaried clerk of all matters done by such court and of all matters which the clerk of the court is required to enter in a register or otherwise to record:

Provided, that nothing in this section shall apply where the court of summary jurisdiction is a court to whose clerk section five of the Justices Clerks Act, 1877, does not apply; that is to say, the justices of a borough, or a metropolitan police court, or any stipendiary or other magistrate the salary of whose clerk is regulated under any Act of Parliament, other than the Justices Clerks Act, 1877, and the principal Act therein mentioned.

40 & 41 Vict. c. 43.

40 & 41 Vict. c. 43.

Special definitions for purposes of the Act.

XLIX. In this Act, if not inconsistent with the context, the following expressions have the meanings herein-after respectively assigned to them; that is to say,

The expression "Secretary of State" means one of Her Majesty's principal Secretaries of State:

The expression "child" means a person who in the opinion of the court before whom he is brought is under the age of twelve years:

The expression "young person" means a person who in the opinion of the court before whom he is brought is of the age of twelve years and under the age of sixteen years:

The expression "adult" means a person who in the opinion of the court before whom he is brought is of the age of sixteen years or upwards:

The expression "person" includes a child, young person, and adult, and also includes a body corporate:

The expression "guardian" in relation to a child, includes any person who, in the opinion of the court having cognizance of any case in which a child is concerned, has for the time being the charge of or control over such child:

The expression "prescribed" means prescribed or provided by any Act which relates to any offences, penalties, fines,

costs, sums of money, orders, proceedings, or matters, to the punishment, recovery, making, or conduct of which the Summary Jurisdiction Acts expressly or impliedly apply or may be applied : Sect. 49.

The expression "past Act" means any Act passed before the commencement of this Act, exclusive of this Act :

The expression "future Act" means any Act passed after the commencement of this Act :

The expression "fine" includes any pecuniary penalty or pecuniary forfeiture or pecuniary compensation payable under a conviction :

The expression "county" includes any county, riding, division, parts, or liberty of a county having a separate court of quarter sessions :

The expression "borough" means a borough subject to the provisions of the Municipal Corporations Act, 1835, and the Acts amending the same : 5 & 6 Will. 4, c. 76.

[Now read "Municipal Corporations Act, 1882" (45 & 46 Vict. c. 50).]

The expression "local rate" means, as respects any county, borough, or place, any county rate, borough rate, or other local rate out of which the costs of the prosecution of any felony committed within such county, borough, or place are payable :

The expressions "sum adjudged to be paid by a conviction" and "sum adjudged to be paid by an order" respectively include any costs adjudged to be paid by the conviction or order, as the case may be, of which the amount is ascertained by such conviction or order.

*General Definitions.*

[Sect. 50. This section, which contained definitions of the expressions "Summary Jurisdiction Act, 1848," "Summary Jurisdiction Acts," "court of summary jurisdiction," "petty sessional court," and "occasional court-house," was amended by the S. J. Act, 1894 (47 & 48 Vict. c. 43), s. 7; but both sections have been repealed by the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 41, which now contains the definitions of these expressions.]

*Application of Acts.*

LI. The following regulations shall be made for the purpose of facilitating the application of the Summary Jurisdiction Acts to any future Act; that is to say, Application of Summary Jurisdiction Acts to future Acts.

(1) Where in any future Act any offence is directed or authorized to be prosecuted summarily or on summary conviction, or any fine is directed or authorized to be recovered summarily or on summary conviction, or any other words are used implying that such offence is to be prosecuted or fine is to be recovered in manner provided by the Summary Jurisdiction Acts, the Summary Jurisdiction Acts shall apply accordingly; and

(2) Where in any future Act any sum of money is directed

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or authorized to be recovered before a court of summary jurisdiction, or on complaint made to a court of summary jurisdiction, or words are used (whether by authorizing the sum to be recovered summarily or in a summary manner or otherwise) which imply that such sum of money is to be recovered before a court of summary jurisdiction or in manner provided by the Summary Jurisdiction Acts, the Summary Jurisdiction Acts shall apply accordingly; and

(3) Where in any future Act a court of summary jurisdiction is authorized to order or require a person to do or abstain from doing any act or thing other than the payment of a sum of money; or where in pursuance of any such Act any act or thing other than the payment of a sum of money is required or authorized by an order of a court of summary jurisdiction to be done, or is declared capable of being enforced summarily, or by summary order; or where in any such Act any words are used implying that such act or thing is to be enforced in manner provided by the Summary Jurisdiction Acts, the Summary Jurisdiction Acts shall apply accordingly.

* * * * *

Application and construction of Act.

LIV. This Act shall apply to the levying of sums adjudged to be paid by an order in any matter of bastardy, or by an order which is enforceable as an order of affiliation, and to the imprisonment of a defendant for non-payment of such sums, in like manner as if an order in any such matter or so enforceable were a conviction on information, and shall apply to the proof of the service of any summons, notice, process, or document in any matter of bastardy, and of any handwriting or seal in any such matter, and to an appeal from an order in any matter of bastardy.

Nothing in this Act shall authorize a court of summary jurisdiction to reduce the amount of a fine where the Act prescribing such amount carries into effect a treaty, convention, or agreement with a foreign state, and such treaty, convention, or agreement stipulates for a fine of a minimum amount.

11 & 12 Vict. c. 43.

This Act shall be construed as one with the Summary Jurisdiction Act, 1848, so far as is consistent with the tenour of such Acts respectively, and save as aforesaid shall be subject to

11 & 12 Vict. c. 43.

the exceptions specified in section thirty-five of the Summary Jurisdiction Act, 1848:

11 & 12 Vict. c. 43.

Provided that the provisions contained in sections thirty-three and thirty-four of the Summary Jurisdiction Act, 1848, as to the Acts relating to the police in the metropolis and in the city of London, and relating to the powers of justices within the metropolitan police district, shall not apply to or restrict the operation of this Act.

This Act shall not apply to any information, complaint, or other

Sect. 54.

Note.

Sums due under an order in bastardy are, therefore, enforceable by criminal process, and not as civil debts.

summary proceeding laid, made, or instituted before the commencement of this Act, or in respect of any offence committed, or any act done, or any cause which arose before the commencement of this Act, and any such information, complaint, or other proceeding as aforesaid may be laid, made, instituted, and proceeded with in the same manner as if this Act had not been passed. Sect. 54.

[Sect. 55. This repeal clause is, together with schedule 2, containing the Acts repealed, repealed by the S. L. R. Act, 1894.]

SCHEDULE I.

[This schedule contains a list of indictable offences that can be dealt with summarily under this Act. It is extended by the Inebriates Act, 1898 (60 & 61 Vict. c. 60), s. 22.]

# POOR LAW ACT, 1879.

## 42 & 43 VICT. CHAP. 54.

An Act to make better provision for the adjustment of Parish Boundaries, and to make further amendments in the Acts relating to the Relief of the Poor in England.

[15th August, 1879.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

I. This Act may be cited as the Poor Law Act, 1879. Short title.

II. This Act shall not extend to Scotland or Ireland. Extent of Act.

[Sect. 3. *Commencement of Act:* Repealed by the S. L. R. Act, 1894.]

*Parish Boundaries.*

IV. Where part of a parish is on one side while the residue of the parish is on the other side of the boundary of a municipal borough or county, or of a river, estuary, or branch of the sea, or where part of a parish is so situate as to be nearly detached from the residue of the parish, or is otherwise so situate as to render the administration of the relief of the poor in or the local government of such part in conjunction with the residue of the parish inconvenient, the said parish shall be deemed to be a divided parish within the meaning of section one of the Divided Parishes and Poor Law Amendment Act, 1876, and the provisions of that Act shall apply accordingly in like manner as if the said part were isolated as mentioned in that section. Applying certain provisions of 39 & 40 Vict. c. 61, to inconvenient divisions of parishes. 39 & 40 Vict. c. 61.

V. *Whereas by section one of the Divided Parishes and Poor Law Amendment Act*, 1876, *an order may be made "for constituting separate parishes out of the divided parish, or for amalgamating some of the parts thereof with the parish or* Removing doubts as to construction of 39 & 40 Vict. c. 61, s. 1. Sect. 5.

The preamble to this section is repealed by the S. L. R. Act, 1894. Note.

Sect. 5.

*parishes in which the same may be locally included, or to which they may be annexed;" and doubts have arisen with respect to the construction of the said provision, and it is expedient to remove such doubts: Be it therefore enacted as follows:*

An order under the said Act may deal with several divided parishes at the same time, and may constitute separate parishes out of any of such divided parishes or out of parts of several divided parishes, and may unite any parts of a divided parish or of several divided parishes with each other, and amalgamate the parts so united with any adjoining parish, and may amalgamate any part of a divided parish or parts of several divided parishes with an adjoining parish or adjoining parishes.

Extension of 39 & 40 Vict. c. 61. to certain places formerly extra-parochial.

VI. Where a parish was at the time of the passing of the Act of the twentieth year of Her present Majesty, chapter nineteen, intituled "An Act to Provide for the Relief of the Poor in Extra-Parochial Places," an extra-parochial place, and a representation is made to the Local Government Board that, by reason of the relative size and shape of such parish, and its position in respect to other parishes, the relief of the poor could be better administered if the same, or any part or parts thereof, were amalgamated with the adjoining parish or parishes, an order may be made in pursuance of the Divided Parishes and Poor Law Amendment Act, 1876, in relation to such parish, in like manner as if the said parish were a divided parish.

39 & 40 Vict. c. 61.

Removing doubts as to effect of an order under 39 & 40 Vict. c. 61, s. 5.

VII. *Whereas by section five of the Divided Parishes and Poor Law Amendment Act*, 1876, *provision is made for dealing with a parish included in a highway district, and doubts have arisen as to the effect of an order under the said Act so far as regards highways, and it is expedient to remove such doubts: Be it therefore enacted as follows:*

Where a parish is a place separately maintaining its own highways, an order made either before or after the commencement of this Act under the Divided Parishes and Poor Law Amendment Act, 1876, shall be deemed to have dealt with that parish for highway as well as for poor law purposes.

39 & 40 Vict. c. 61.

Where a parish is not a place separately maintaining its own

Sect. 6. Note.

By an order of the Local Government Board, made under the provisions of the Divided Parishes and Poor Law Amendment Act, 1876, as amended and extended by this section, a portion of a parish was added to and amalgamated with another parish, in which a pauper had previously acquired a settlement. *Held* that the order did not operate to destroy the parish to which the portion was added, and that the settlement of the pauper remained unaffected (*West Ham Union* v. *London County Council*, [1901] 1 K. B. 720; distinguishing *Reg.* v. *Tipton*, 3 Q. B. 215).

Sect. 7.

The preamble to this section is repealed by the S. L. R. Act, 1894.

Note.

By the Divided Parishes and Poor Law Amendment Act, 1882 (45 & 46 Vict. c. 58), s. 6, it is provided that sect. 5 of 39 & 40 Vict. c. 61, shall apply to any parish in a highway district, although it may not be a parish for which a waywarden can be elected.

highways, an order under the Divided Parishes and Poor Law Amendment Act, 1876, dealing with such poor law parish or any part thereof, may deal with any area affected by the order for highway purposes in like manner as it deals with the same for poor law purposes. Sect. 7. 39 & 40 Vict. c. 61.

Where any such order has been made before the passing of this Act, a supplemental order may be made under the said Act for the purposes of dealing with the area so far as regards highways.

For the purposes of this section, any parish, township, or place separately maintaining its own highways or entitled to return a separate waywarden to a highway board under the Highway Acts shall be deemed to be a place separately maintaining its own highways.

*Miscellaneous Amendments of Law.*

VIII. Where on any representation it appears to the Local Government Board that the combination of two or more unions not in the metropolis for any purpose connected with the administration of the relief of the poor would tend to diminish expense, or would otherwise be of public or local advantage, the Board may, with the consent of the guardians of the unions to be combined, make an order for combining such unions for the purposes named therein, and for constituting for the execution of such purposes a joint committee of the guardians of each of the combined unions. Combination of unions not in the metropolis.

The order shall define the powers, rights, duties, liabilities, and obligations of the joint committee, and regulate the election, meetings, and officers of the joint committee, the mode of defraying the expenses of the joint committee, and any other matter or thing (including the adjustment of present and future liabilities and property) which it appears necessary or proper to regulate for the better carrying into effect the order.

The guardians of a union included in such combination shall, save as otherwise provided by the order, cease to exercise any powers and rights, and to be subject to any duties, liabilities, and obligations vested by the order in the joint committee.

All property acquired by the joint committee shall be vested in the boards of guardians of the unions included in the combination as tenants in common.

An order may be made for amending, adding to, or revoking any order previously made under this section.

IX. An application under section two of the Poor Law Amendment Act, 1867, may be made by any churchwarden, overseers, Amendment of 30 & 31 Vict. c. 106, s. 2, as to Sect. 8. Note.

As to the alteration or dissolution of unions by the Local Government Board, see the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 32; the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 66; the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 4; the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 11; and the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 58; and for the alteration of unions by a county council, see the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 36 (6).

Sect. 10.

managers, commissioners, or other persons having any powers or duties under any such local Act as is in that section mentioned, as well as by the guardians.

application for alteration of certain local Acts.

X. *Whereas by section four of the Poor Law Amendment Act*, 1851, *guardians are authorized, with such consent as is therein mentioned, to subscribe towards the support and maintenance of any public hospital or infirmary as therein mentioned, and it is expedient to extend the said section: Be it therefore enacted as follows:*

Extension of 14 & 15 Vict. c. 105, s. 4, as to subscriptions to institutions.

The provisions of the said section shall extend to authorize the guardians, with such consent as is therein mentioned, to subscribe towards any asylum or institution for blind persons, or for deaf and dumb persons, or for persons suffering from any permanent or natural infirmity, or towards any association or society for aiding such persons, or for providing nurses, or for aiding girls or boys in service, or towards any other asylum or institution which appears to the guardians, with such consent as aforesaid, to be calculated to render useful aid in the administration of the relief of the poor.

Provided always, that nothing herein contained shall authorize any subscription to any asylum or institution unless the Local Government Board be satisfied that the paupers under the guardians have or could have assistance therein in case of necessity.

[Sect. 11. *Power to guardians to borrow for furnishing workhouses:* Repealed by the Poor Law Act, 1889 (52 & 53 Vict. c. 56), and its provisions replaced by sect. 2 of that Act.]

[Sect. 12. *Amendment of sect. 5 of the Union Loans Act*, 1869 (32 & 33 *Vict.* c. 45): Sect. 5 of the Union Loans Act, 1869, and this section are repealed by the Poor Law Act, 1897 (60 & 61 Vict. c. 29), and their provisions replaced by sect. 1 of that Act.]

Application of 32 & 33 Vict. c. 45, to loans to managers of district schools, &c.

XIII. The provisions of the Union Loans Act, 1869, shall be deemed to have applied, and as amended by this Act shall apply, to the managers of district schools and to the managers of districts constituted under the Metropolitan Poor Act, 1867, in like manner as if they were guardians.

30 & 31 Vict. c. 6.

Transfer of buildings, &c. to rural

XIV. If it appear to the guardians of any union desirable that any hospital or building vested in them as guardians

Sect. 10.

Note.

The preamble to this section is repealed by the S. L. R. Act, 1894.

Sect. 13.

Note.

The provisions of the Union Loans Act, 1869, as to the manner in which loans to guardians may be repaid are now replaced by the provisions of the Poor Law Act, 1897 (60 & 61 Vict. c. 29). The provisions of the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 2, relating to borrowing powers, apply also to managers of district schools, &c.

Sect. 14.

Note.

By the Public Health Act, 1875, s. 131, a rural district council may provide hospitals for the reception of the sick, whether paupers or not.

Sect. 14.

sanitary authority for use as infectious hospitals.

under the Acts relating to the relief of the poor should be vested in them as the rural sanitary authority of such union, for the reception of persons suffering from any dangerous infectious disorder, the guardians may, by resolution, to be confirmed by an order of the Local Government Board, transfer such hospital or building accordingly; and from and after the date named in the order such hospital or building shall be deemed to be vested in the guardians as the rural sanitary authority of the union, for the use of the inhabitants of the union or part thereof named in the resolution and order.

If the same is to be for the use of the inhabitants of any part of the union comprised in an urban sanitary district the order may determine the contribution to be made by the urban sanitary authority of such district towards the maintenance of the hospital or building.

Where an urban sanitary district comprises part of the union and the said hospital or building is not to be for the use of the inhabitants of that part, the order may determine the value of the interest of that part of the union in such hospital or building, and the manner in which such value is to be paid to that part by the residue of the union for whose use the hospital or building is to be kept and the application of the sum so paid.

[Sect. 15. *Power for Metropolitan Asylums Board to contract with local authority for reception, &c., in hospital of persons suffering from dangerous infectious disorder;* Sect. 16. *Power for Metropolitan Asylums Board to provide ambulances:* These sections are repealed by the Public Health (London) Act, 1891, and replaced by sects. 76, 79, 80, and 104 of that Act.]

Power to remunerate poor rate collectors for collecting rates in parts of parishes.

XVII. Where a rate is levied by the overseers of a parish over part of the parish only, the officers ordinarily employed in the collection of the poor rate shall, if required by the overseers, collect such first-mentioned rate, and shall receive out of the same such remuneration for the additional duty as the overseers, with the consent of the vestry, may determine.

Definitions.

XVIII. In this Act, unless inconsistent with the context,—

"Metropolis."

The expression "the metropolis" means all parishes and places in which the Metropolitan Board of Works have for the time being power to levy the consolidated rate:

"Metropolitan Asylums Board."

The expression "Metropolitan Asylums Board" means the Managers of the Metropolitan Asylums District:

Sect. 17.

Note.

For examples of rates which may be levied over part of a parish, see the Burials Act, 1855 (18 & 19 Vict. c. 128), s. 13; the Public Health Act, 1875 (38 & 39 Vict. c. 55), ss. 229, 230; the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 146, &c.

Sect. 18.

Note.

See the Interpretation Act, 1889 (52 & 53 Vict. c. 63), for definitions of many of the above terms.

Sect. 18.

"Parish."

"Municipal borough."

5 & 6 Will. 4, c. 76.

"Urban and rural sanitary district."

38 & 39 Vict. c. 55.

"Union."

"Guardians."

4 & 5 Will. 4, c. 76.

4 & 5 Will. 4, c. 76.

The expression "parish" means any parish, township, or place for which a separate poor rate is or can be made:

The expression "municipal borough" means a borough for the time being subject to the Municipal Corporation Act, 1835, and the Acts amending the same:

The expression "urban sanitary district" and "rural sanitary district" mean respectively an urban sanitary district and rural sanitary district within the meaning of the Public Health Act, 1875:

The expression "union" means a union of parishes under a general or local Act, with a separate board of guardians, and includes a parish for which there is a separate board of guardians:

The expression "guardians" means guardians appointed under the Poor Law Amendment Act, 1834, and the Acts amending the same, and includes guardians or other body of persons performing under any local Act the like functions as guardians under the Poor Law Amendment Act, 1834.

Saving as to 39 & 40 Vict. c. 61, s. 43.

XIX. Nothing in this Act contained shall repeal, alter or affect any of the provisions of the forty-third section of the Divided Parishes and Poor Law Amendment Act, 1876.

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# THE UNION ASSESSMENT ACT, 1880.

## 43 & 44 VICT. CHAP. 7.

An Act to extend the Union Assessment Committee Acts to single parishes under separate Boards of Guardians.

[19th July, 1880.]

25 & 26 Vict. c. 103, s. 45.

WHEREAS under section forty-five of the Union Assessment Committee Act, 1862, as amended by subsequent Acts, it is provided that on the application of the body having the management of the relief of the poor in any union or incorporation under a local Act, the Local Government Board may order

25 & 26 Vict. c. 103.

such union or incorporation to be included in the Union Assessment Committee Act, 1862, and it is expedient to make the like provision with respect to single parishes which are not included in any union or parishes either under a local Act or

4 & 5 Will. 4, c. 76.

under the Poor Law Amendment Act, 1834:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

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Sect. 19.

Note.

The 39 & 40 Vict. c. 61, s. 43, removes the exemption heretofore enjoyed by the Inns of Court and the Charterhouse from contributing to the common fund of any union.

Sect. 1.

Short title.

I. This Act may be cited as the Union Assessment Act, 1880, and together with the Union Assessment Committee Act, 1862, and the Union Assessment Committee Amendment Act, 1864, may be cited as the Union Assessment Acts, 1862 to 1880.

25 & 26 Vict. c. 103.

27 & 28 Vict. c. 39.

Application of 25 & 26 Vict. c. 103, s. 45, to single parishes under separate boards of guardians.

II. Section forty-five of the Union Assessment Committee Act, 1862, shall apply to a parish which is not included in a union of parishes, and in which the relief of the poor is administered by a board of guardians elected under the Poor Law Amendment Act, 1834, or under any local Act, in like manner as near as may be as it applies to any union or incorporation for the relief of the poor formed under a local Act, and the Union Assessment Committee Act, 1862, and the Acts amending the same, shall be construed accordingly; and in relation to any such single parish the expression "common fund" in the said Acts shall be construed to mean the money applicable for the relief of the poor.

4 & 5 Will. 4, c. 76.

25 & 26 Vict. c. 103.

Extent of Act.

III. This Act shall not extend to the metropolis as defined by the Valuation (Metropolis) Act, 1869.

32 & 33 Vict. c. 67.

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# INDUSTRIAL SCHOOLS ACTS AMENDMENT ACT, 1880.

43 & 44 VICT. CHAP. 15.

An Act further to amend the Industrial Schools Act, 1866, and the Industrial Schools Act (Ireland), 1868.

[2nd August, 1880.]

* * * * *

Extension of 29 & 30 Vict. c. 118, s. 14, and 31 & 32 Vict. c. 25, s. 11, to other description of children.

[I.] Section fourteen of the Industrial Schools Act, 1866, and section eleven of the Industrial Schools Act (Ireland), 1868, shall be respectively read and construed as if, after the four several descriptions therein respectively contained, there were added the following descriptions, namely,—

That is lodging, living, or residing with common or reputed

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Sect. 1.

Note.

A child under fourteen who lives with and under the guardianship of her mother, in "a house resided in by prostitutes," may be ordered to be sent to an industrial school under the above Acts, although there is no evidence of any act of prostitution on the part of the mother (*Hiscocks* v. *Jermonson*, 10 Q. B. D. 360; 52 L. J. M. C. 42; 48 L. T. (N. S.) 225; 31 W. R. 656; 47 J. P. 183).

The power given to any person to bring before justices a child residing with prostitutes includes the bringing of the child by way of legal process. Hence, a summons may be served on the child, and process to arrest in the usual way may follow as provided by the S. J. Acts (*Reg.* v. *Moore*, 52 J. P. 375); and if the child does not appear a warrant may be issued to bring him or her before the justices (*Re Hampshire JJ.*, 52 J. P. 311).

Sect. 1.

prostitutes, or in a house resided in or frequented by prostitutes for the purpose of prostitution :

That frequents the company of prostitutes.

Short title.

II. This Act may be cited for all purposes as the Industrial Schools Acts Amendment Act, 1880.

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# TAXES MANAGEMENT ACT, 1880.

43 & 44 VICT. CHAP. 19.

An Act to consolidate Enactments relating to certain Taxes and Duties under the Management of the Board of Inland Revenue. [6th August, 1880.]

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[The only sections of this Act which relate to poor law matters are sects. 38 and 39.]

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*Poor Law Parishes.*

Parishes formed for poor law purposes may be made parishes for the purposes of the duties.

XXXVIII.—(1) Where in England under the authority of Parliament, any part of a parish or place has been formed into a new parish or place for the purposes of poor law administration, or any parish or place, or part of a parish or place, has been amalgamated with or included within the boundaries of another parish or place for the said purposes, the board may, if they think fit, by order in writing, direct that such new parish or place, or such parish or place with which or within the boundaries of which any parish or place, or part of a parish or place, has been amalgamated or included, shall be a parish for which a separate assessment of the duties shall be made, and for which assessors and collectors may be appointed for the purpose of assessing and collecting the said duties.

(2) In case any parish or place or part of a parish or place in the jurisdiction of one body of General Commissioners is amalgamated with or included within the boundaries of a parish or place in the jurisdiction of another body of General Commissioners, such order shall have the effect of transferring the jurisdiction to such last-named body.

*Parochial Books.*

Inspection of parish books.

XXXIX. The Land Tax and General Commissioners, surveyors, and assessors, or any person authorized by them, or any of them, shall have liberty from time to time and at all seasonable times to inspect and to take copies or extracts from

any book kept by any parish officer or other person of or concerning the rates made for the relief of the poor, or any other public taxes, rates, or assessments, or any contributions under the management of the kirk sessions in any place within the limits for which they shall be appointed; and if any person in whose custody or power any of the said books shall be fails to permit the said inspection, or the copies or extracts to be made as aforesaid, or to attend the said commissioners with such books when required so to do, he shall for every such offence incur a penalty of ten pounds. Sect. 39. Penalty for refusal.

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# ELEMENTARY EDUCATION ACT, 1880.

## 43 & 44 VICT. CHAP. 23.

An Act to make further provisions as to Bye-laws respecting the attendance of Children at School under the Elementary Education Acts. [26th August, 1880.]

*WHEREAS a school attendance committee within the meaning of the Elementary Education Act*, 1876, *are authorized to make bye-laws respecting the attendance of children at school under section seventy-four of the Elementary Education Act*, 1870, *as if such school attendance committee were a school board, but a school attendance committee for a union cannot make bye-laws respecting any parish in their union, except on the requisition of the parish; and it is expedient to make further provision for the making of bye-laws respecting the attendance of children at school.* 39 & 40 Vict. c. 79. 33 & 34 Vict. c. 75.

*And whereas it is expedient otherwise to amend the Elementary Education Act*, 1876, *in respect of bye-laws*: . . . 39 & 40 Vict. c. 79.

[The preamble is repealed by the S. L. R. Act, 1894.]

[I.] This Act may be cited as the Elementary Education Act, 1880, and shall be construed as one with the Elementary Education Act, 1876. . . . Short title and construction. 39 & 40 Vict. c. 79.

II. It shall be the duty of the local authority (within the meaning of the Elementary Education Act, 1876) of every Obligation to make bye-laws as to the

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The remainder of this section as to the citation of the Act is repealed by the S. L. R. Act, 1894. Sect. 1. Note.

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The "local authority" in a district within the jurisdiction of a school board is the school board, and in any other district is the school attendance committee appointed by the guardians, the borough council, or urban district council, as the case may be. Sect. 2. Note.

Sect. 2.

attendance of children at school.

school district in which bye-laws respecting the attendance of children at school under section seventy-four of the Elementary Education Act, 1870, are not at the passing of this Act in force, forthwith to make bye-laws under that section for such district.

39 & 40 Vict. c. 79.

33 & 34 Vict. c. 75.

39 & 40 Vict. c. 79.

If at any time . . . it appears to the Education Department that in any school district there are no bye-laws under that section in force, the Education Department may either proceed under section twenty-seven of the Elementary Education Act, 1876 (which relates to a local authority who fail to fulfil their duty under that Act), or may make bye-laws respecting the attendance of children at school in that district, and the bye-laws so made shall have effect and be enforced and be subject to revocation and alteration as if they had been made by the local authority for that district and sanctioned by the Education Department in pursuance of section seventy-four of the Elementary Education Act, 1870. . . .

33 & 34 Vict. c. 75.

Power of school attendance committee to make bye-laws.

39 & 40 Vict. c. 79.

III. The school attendance committee for a union comprising a parish may, in pursuance of section twenty-one of the Elementary Education Act, 1876, without the requisition of the parish, make bye-laws under section seventy-four of the Elementary Education Act, 1870, respecting the attendance of children at school.

33 & 34 Vict. c. 75.

Enforcing of bye-laws.

IV. Every person who takes into his employment a child of the age of *ten* and under the age of *thirteen* years resident in a school district, before that child has obtained a certificate of having reached the standard of education fixed by a bye-law in force in the district for the total or partial exemption of children of the like age from the obligation to attend school, shall be deemed to take such child into his employment in contravention of the Elementary Education Act, 1876, and shall be liable to a penalty accordingly.

39 & 40 Vict. c. 79.

Proceedings may, in the discretion of the local authority or person instituting the same, be taken for punishing the contravention of a bye-law, notwithstanding that the act or neglect

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Sect. 2. Note.

(See the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), ss. 7, 33.)

Parts of this section are repealed by the S. L. R. Act, 1894.

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Sect. 4. Note.

The proviso to this section is repealed by the S. L. R. Act, 1894.

The age for exemption from school attendance is fixed at eleven years by the Elementary Education (School Attendance) Act, 1893 (56 & 57 Vict. c. 51), s. 1.

The limit of fourteen years is substituted for thirteen by the Elementary Education Act, 1900 (63 & 64 Vict. c. 53), s. 6 (1).

For the penalty for employing a child in contravention of the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), see sect. 6 of that Act.

or default alleged as such contravention constitutes habitual neglect to provide efficient elementary education for a child within the meaning of section eleven of the Elementary Education Act, 1876. . . . Sect. 4. 39 & 40 Vict. c. 79.

V. Notwithstanding anything contained in section forty of the Elementary Education Act, 1876, a child shall not, as a condition of the continuance of relief out of the workhouse being continued to him or his parent, be required to attend school further or otherwise than he is required to attend by a bye-law in force under section seventy-four of the Elementary Education Act, 1870, as amended by the Elementary Education Act, 1876, and this Act, in the school district in which he is resident: Provided that this section shall not apply where there is no such bye-law in force in the school district. Amendment of 39 & 40 Vict. c. 79, s. 40, as to education being condition of relief to parents of children. 33 & 34 Vict. c. 75. 39 & 40 Vict. c. 79.

[Sect. 6. *Repeal:* This section and the schedule, which repealed sect. 21 in part; sects. 22, 51, 52; and the first schedule, in part, of the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), are repealed by the S. L. R. Act, 1894.]

## BASTARDY ORDERS ACT, 1880.

43 & 44 VICT. CHAP. 32.

An Act to render valid certain Orders in Bastardy.
[26th August, 1880.]

WHEREAS by the Bastardy Laws Amendment Act, 1873, it was enacted that the Local Government Board might issue such new or altered forms of proceedings in matters of bastardy as they should deem necessary or expedient for giving effect to the provisions of that Act and the Bastardy Laws Amendment Act, 1872; and the said board issued certain forms accordingly: 36 & 37 Vict. c. 9. 35 & 36 Vict. c. 65.

And whereas many orders in bastardy have been made which are not in accordance with the forms so issued, or to the like tenor or effect, and in particular the words "for the maintenance and education of the said child" have been omitted from the said orders, and questions have in consequence arisen as to the validity of the same:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

There is now no district in which there are not bye-laws in force. Sect. 5. Note.

Sect. 1.

Confirmation of orders.

I. An order so made as aforesaid before the passing of this Act shall not be, or be deemed to be, invalid by reason of the omission from such order of the words "for the maintenance and education of the said child," or words to the like tenor or effect.

Short title.

II. This Act may be cited as the Bastardy Orders Act, 1880.

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# BURIAL LAWS AMENDMENT ACT, 1880.

## 43 & 44 VICT. CHAP. 41.

An Act to amend the Burial Laws. [7th September, 1880.]

[Preamble and parts of certain sections repealed by the S. L. R. Act, 1894.]

BE it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

[This Act is annotated here mainly in respect of matters which may affect poor law authorities.]

After passing of Act, notice may be given that burial will take place in churchyard or graveyard without the rites of the Church of England.

[I.] Any relative, friend, or legal representative having the charge of or being responsible for the burial of a deceased person may give forty-eight hours' notice in writing, indorsed on the outside "Notice of Burial," to, or leave or cause the same to be left at the usual place of abode of the rector, vicar, or other incumbent, or in his absence the officiating minister in charge of any parish or ecclesiastical district or place, or any person appointed by him to receive such notice, that it is intended that such deceased person shall be buried within the churchyard or graveyard of such parish or ecclesiastical district or place without the performance, in the manner prescribed by law, of the service for the burial of the dead according to the rites of the Church of England, and after receiving such notice

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43 & 44 Vict. c. 32. Sect. 1. Note.

This Act was passed in consequence of the decision in *Reg.* v. *Padbury* (5 Q. B. D. 127; 49 L. J. M. C. 55; 28 W. R. 182; 44 J. P. 361). It was there held that a bastardy order directing the payment to be made to the mother, without any provision for its application to the maintenance and education of the child, was invalid.

43 & 44 Vict. c. 41. Sect. 1. Note.

Guardians who may be responsible for the burial of any poor person are not enabled by this section to give a notice of burial under this Act in respect of such poor person. Such a case is provided for by sect. 2.

By sect. 8 of the Burial Act, 1900 (63 & 64 Vict. c. 15), the notice to be given of intention to bury in a burial ground maintained by a burial authority shall be given at such time and to such person as the burial authority may direct, and so much of this section as requires forty-eight hours' notice to be given in such case is repealed.

Sect. 1.

no rector, vicar, incumbent, or officiating minister shall be liable to any censure or penalty, ecclesiastical or civil, for permitting any such burial as aforesaid. Such notice shall be in writing, plainly signed with the name and stating the address of the person giving it, and shall be in the form or to the effect of schedule (A.) annexed to this Act.

The word "graveyard" in this Act shall include any burial ground or cemetery vested in any burial board, or provided under any Act relating to the burial of the dead, in which the parishioners or inhabitants of any parish or ecclesiastical district have rights of burial; and in the case of any such burial ground or cemetery, if a chaplain is appointed to perform the burial service of the Church of England therein, notice under this Act shall be addressed to such chaplain, but the same shall be given to or left at the office of the clerk of the burial board, if any, in whom any such burial ground or cemetery may be vested: Provided also, that it shall be lawful for the proprietors or directors of any proprietary cemetery or burial ground to make such bye-laws or regulations as may be necessary for enabling any burial to take place therein in accordance with the provisions of this Act, any enactment to the contrary notwithstanding.

Paupers.

II. Such notice, in the case of any poor person deceased, whom the guardians of any parish or union are required or authorized by law to bury, may be given to the rector, vicar, or other incumbent in manner aforesaid, and also to the master of any workhouse in which such poor person may have died, or

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Sect. 1. Note.

"Graveyard" now includes any burial ground provided under the Public Health (Interments) Act, 1879 (42 & 43 Vict. c. 31). (See sect. 9 of the Burial Act, 1900 (63 & 64 Vict. c. 15).)

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Sect. 2. Note.

Guardians are not required by law to bury any poor person who does not die in a workhouse or premises belonging to them (*Reg.* v. *Stewart*, 12 A. & E. 773; 7 P. & D. 349). But by the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 31, the guardians of a parish or union are authorized to bury the body of any poor person, which may be within their parish or union, at the expense of the parish or union to which such person may have been chargeable; and by the Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 10, for the purposes of the burial of any poor person dying in the workhouse of the union, such workhouse shall be considered as situated in the parish in the union where such poor person resided last previously to his removal to the workhouse.

It should also be noticed that by the Infectious Disease (Prevention) Act, 1890 (53 & 54 Vict. c. 34), s. 10, and the Public Health (London) Act (54 & 55 Vict. c. 76), s. 89, it is the duty of the *relieving officer* to bury the body of any deceased person in respect of whom an order has been made by a justice of the peace under either of those Acts, unless the friends or relatives of the deceased undertake to bury and do bury such body within the time limited by such order; and any expense so incurred may be recovered by the guardians in a summary manner from any person legally liable to pay the expenses of such burial.

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otherwise to the said guardians, by the husband, wife, or next of kin of such poor person, who, for the purposes of this Act, shall be deemed to be the person having the charge of the burial of such deceased poor person; and in any such case it shall be the duty of the said guardians to permit the body of such deceased person to be buried in the manner provided by this Act.

Time of burial to be stated, subject to variation.

III. Such notice shall state the day and hour when such burial is proposed to take place, and in case the time so stated be inconvenient on account of some other service having been, previously to the receipt of such notice, appointed to take place in such churchyard or graveyard, or the church or chapel connected therewith, or on account of any bye-laws or regulations lawfully in force in any graveyard limiting the times at which burials may take place in such graveyard, the person receiving the notice shall, unless some other day or time shall be mutually arranged within twenty-four hours from the time of giving or leaving such notice, signify in writing, to be delivered to or left at the address or usual place of abode of the person from whom such notice has been received, or at the house where the deceased person is lying, at which hour of the day named in the notice, or (in case of burial in a churchyard, if such day shall be a Sunday, Good Friday, or Christmas Day) of the day next following, such burial shall take place; and it shall be lawful for the burial to take place, and it shall take place, at the hour so appointed or mutually arranged, and in other respects in accordance with the notice: Provided that, unless it shall be otherwise mutually arranged, the time of such burial shall be between the hours of ten o'clock in the forenoon and six o'clock in the afternoon if the burial be between the first day of April and the first day of October, and between the hours of ten o'clock in the forenoon and three o'clock in the afternoon if the burial be between the first day of October and the first day of April: Provided also, that no such burial shall take place in any churchyard on Sunday, or on Good Friday or Christmas Day, if any such day being proposed by the notice shall be objected to in writing for a reason assigned by the person receiving such notice.

Burial to take place accordingly.

IV. When no such intimation of change of hour is sent to the person from whom the notice has been received, or left at the house where the deceased person is lying, the burial shall take place in accordance with and at the time specified in such notice.

Regulations and fees.

V. All regulations as to the position and making of the grave which would be in force in such churchyard or graveyard in the case of persons interred therein with the service of the Church

Sect. 5.

Note.

The provision in this section as to payment of fees is in effect repealed as to cemeteries established by local authorities by sect. 3 (4) of the Burial Act, 1900 (63 & 64 Vict. c. 15), and also considerably modified by the same sub-section with regard to burial grounds provided under the Burial Acts.

of England shall be in force as to burials under this Act; and any person who, if the burial had taken place with the service of the Church of England, would have been entitled by law to receive any fee, shall be entitled, in case of a burial under this Act, to receive the like fee in respect thereof.

Burial may be with or without religious service.

VI. At any burial under this Act all persons shall have free access to the churchyard or graveyard in which the same shall take place. The burial may take place, at the option of the person so having the charge of or being responsible for the same as aforesaid, either without any religious service, or with such Christian and orderly religious service at the grave, as such person shall think fit; and any person or persons who shall be thereunto invited, or be authorized by the person having the charge of or being responsible for such burial, may conduct such service or take part in any religious act thereat. The words "Christian service" in this section shall include every religious service used by any Church, denomination, or person professing to be Christian.

Burials to be conducted in a decent and orderly manner and without obstruction.

VII. All burials under this Act, whether with or without a religious service, shall be conducted in a decent and orderly manner; and every person guilty of any riotous, violent, or indecent behaviour at any burial under this Act, or wilfully obstructing such burial or any such service as aforesaid thereat, or who shall, in any such churchyard or graveyard as aforesaid, deliver any address, not being part of or incidental to a religious service permitted by this Act, and not otherwise permitted by any lawful authority, or who shall, under colour of any religious service or otherwise, in any such churchyard or graveyard, wilfully endeavour to bring into contempt or obloquy the Christian religion or the belief or worship of any Church or denomination of Christians, or the members or any minister of any such Church or denomination, or any other person, shall be guilty of a misdemeanour.

Powers for prevention of disorder.

VIII. All powers and authorities now existing by law for the preservation of order, and for the prevention and punishment of disorderly behaviour in any churchyard or graveyard may be exercised in any case of burial under this Act in the same manner and by the same persons as if the same had been a burial according to the rites of the Church of England.

Act not to give right of burial where no previous right existed.

IX. Nothing in this Act shall authorize the burial of any person in any place where such person would have had no right of interment if this Act had not passed, or without performance of any express condition on which, by the terms of any trust deed, any right of interment in any burial ground vested in trustees under such trust deed, not being the churchyard or graveyard, or part of the churchyard or graveyard, of the parish or ecclesiastical district in which the same is situate, may have been granted.

Sect. 10.

Burials under Act to be registered.

X. When any burial has taken place under this Act the person so having the charge of or being responsible for such burial as aforesaid shall, on the day thereof, or the next day thereafter, transmit a certificate of such burial, in the form or to the effect of schedule (B.) annexed to this Act, to the rector, vicar, incumbent, or other officiating minister in charge of the parish or district in which the churchyard or graveyard is situate or to which it belongs, or in the case of any burial ground or cemetery vested in any burial board to the person required by law to keep the register of burials in such burial ground or cemetery, who shall thereupon enter such burial in the register of burials of such parish or district, or of such burial ground or cemetery, and such entry shall form part thereof. Such entry, instead of stating by whom the ceremony of burial was performed, shall state by whom the same has been certified under this Act. Any person who shall wilfully make any false statement in such certificate, and any rector, vicar, or minister, or other such person as aforesaid, receiving such certificate, who shall refuse or neglect duly to enter such burial in such register as aforesaid shall be guilty of a misdemeanour.

Order of coroner or certificate of registrar to be delivered to relative, &c. instead of to person who buries.

XI. Every order of a coroner or certificate of a registrar given under the provisions of section seventeen of the Births and Deaths Registration Act, 1874, shall, in the case of a burial under *that* Act, be delivered to the relative, friend, or legal representative of the deceased, having the charge of or being responsible for the burial, instead of being delivered to the person who buries or performs any funeral or religious service for the burial of the body of the deceased; and any person to whom such order or certificate shall have been given by the coroner or registrar who fails so to deliver or cause to be delivered the same shall be liable to a penalty not exceeding forty shillings, and any such relative, friend, or legal representative so having charge of or being responsible for the burial of the body of any person buried under this Act as aforesaid, as to which no order or certificate under the same section of the said Act shall have been delivered to him, shall, within seven days after the burial, give notice thereof in writing to the registrar, and if he fail so to do shall be liable to a penalty not exceeding ten pounds.

Liberty to use burial service of Church of England in unconsecrated ground.

XII. No minister in holy orders of the Church of England shall be subject to any censure or penalty for officiating with the service prescribed by law for the burial of the dead according to the rites of the said Church in any unconsecrated burial ground or cemetery or part of a burial ground or cemetery, or in any building thereon, in any case in which he might have

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Sect. 11. Note.

The word "that" in italics should be "this" (Burial and Registration Acts (Doubts Removal) Act, 1881 (46 Vict. c. 2), s. 2).

lawfully used the same service, if such burial ground or cemetery or part of a burial ground or cemetery had been consecrated. The relative, friend, or legal representative having charge of or being responsible for the burial of any deceased person who had a right of interment in any such unconsecrated ground vested in any burial board, or provided under any Act relating to the burial of the dead, shall be entitled, if he think fit, to have such burial performed therein according to the rites of the Church of England by any minister of the said Church who may be willing to perform the same. Sect. 12.

XIII. . . . It shall be lawful for any minister in holy orders of the Church of England authorized to perform the burial service, in any case where the office for the burial of the dead according to the rites of the Church of England may not be used, and in any other case at the request of the relative, friend, or legal representative having the charge of or being responsible for the burial of the deceased, to use at the burial such service, consisting of prayers taken from the Book of Common Prayer and portions of Holy Scripture, as may be prescribed or approved of by the Ordinary, without being subject to any ecclesiastical or other censure or penalty. Relief of clergy of Church of England from penalties in certain cases.

XIV. Save as in this Act expressly provided as to ministers of the Church of England, nothing herein contained shall authorize or enable any such minister who shall not have become a declared member of any other Church or denomination, or have executed a deed of relinquishment under the Clerical Disabilities Act, 1870, to do any act which he would not by law have been authorized or enabled to do if this Act had not passed, or to exempt him from any censure or penalty in respect thereof. Saving as to ministers of Church of England.

XV. This Act shall extend to the Channel Islands, but shall not apply to Scotland or to Ireland. Application of Act.

XVI. This Act may be cited as the Burial Laws Amendment Act, 1880. Short title of Act.

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SCHEDULES TO WHICH THIS ACT REFERS.

SCHEDULE (A.).

*Notice of Burial.*

I , of , being the relative [*or* friend, *or* legal representative, *as the case may be, describing the relation if a*

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The address of the person giving this notice must be stated in the notice, which should also be signed, otherwise it will be a bad notice and may be disregarded (*Hoare* v. *Ram*, 45 J. P. 729). Schedule (A.). Note.

Schedules.

*relative*] having the charge of or being responsible for the burial of *A. B.*, of , who died at in the parish of on the day of , do hereby give you notice that it is intended by me that the body of the said *A. B.* shall be buried within the [*here describe the churchyard or graveyard in which the body is to be buried*] on the day of , at the hour of , without the performance in the manner prescribed by law of the service for the burial of the dead according to the rites of the Church of England, and I give this notice pursuant to the Burial Laws Amendment Act, 1880.

To the Rector [*or, as the case may be*] of .

SCHEDULE (B.).

I , of , the person having the charge of [*or* being responsible for] the burial of the deceased, do hereby certify that on the day of , *A. B.*, of , aged , was buried in the churchyard [*or* graveyard] of the parish [*or* district] of .

To the Rector [*or, as the case may be*] of .

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# THE BURIAL AND REGISTRATION ACTS (DOUBTS REMOVAL) ACT, 1881.

44 & 45 VICT. CHAP. 2.

An Act to remove Doubts as to the operation and effect of so much of the Burial Laws Amendment Act, 1880, as relates to the Births and Deaths Registration Act, 1874.

[17th February, 1881.]

[Preamble repealed by the S. L. R. Act, 1894.]

* * * * *

Explanation of 43 & 44 Vict. c. 41, s. 11.
37 & 38 Vict. c. 88.
43 & 44 Vict. c. 41.

[I.] Nothing in the eleventh section of the Burial Laws Amendment Act, 1880, shall have, or be deemed in law to have had, the effect of repealing, or in any manner altering, any of the provisions contained in the seventeenth section of the Births and Deaths Registration Act, 1874, in any case whatever, save and except only the case of a burial under the Burial Laws Amendment Act, 1880.

Construction of 43 & 44 Vict. c. 41, s. 11.

II. The words "in the case of a burial under that Act" in the first sentence of section eleven of the Burial Laws Amendment Act, 1880, shall be construed and read as if they had been "in the case of a burial under this Act."

Short title.

III. This Act may be cited as the Burial and Registration Acts (Doubts Removal) Act, 1881.

# SUMMARY JURISDICTION (PROCESS) ACT; 1881.

## 44 & 45 VICT. CHAP. 24.

An Act to amend the Law respecting the Service of Process of Courts of Summary Jurisdiction in England and Scotland. [18th July, 1881.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

[This Act is inserted here as it may affect certain matters of poor law administration, such as orders of maintenance, bastardy, &c.]

I. This Act may be cited as the Summary Jurisdiction (Process) Act, 1881. Short title.

This Act shall be deemed to be included in the expressions "Summary Jurisdiction Acts" and "Summary Jurisdiction (English) Acts."

II. This Act shall not apply to Ireland. Extent of Act.

[Sect. 3. *Commencement of Act:* Repealed by the S. L. R. Act, 1894.]

IV. Subject to the provisions of this Act, any process issued under the Summary Jurisdiction Acts may, if issued by a court of summary jurisdiction in England and indorsed by a court of summary jurisdiction in Scotland, or issued by a court of summary jurisdiction in Scotland and indorsed by a court of summary jurisdiction in England, be served and executed within the jurisdiction of the indorsing court in like manner as it may be served and executed within the jurisdiction of the issuing court, and that by an officer either of the issuing or of the indorsing court. Service of process of English court in Scotland and of Scotch court in England.

For the purposes of this Act—

(1) Any process may be issued and indorsed under the hand of any such person as is declared by this Act to be a court of summary jurisdiction, and may be indorsed upon proof alone of the handwriting of the person issuing it, and such proof may be either on oath or by such solemn declaration as is mentioned in section forty-one of the Summary Jurisdiction Act, 1879, or 42 & 43 Vict. c. 49.

See the S. J. Act, 1879 (42 & 43 Vict. c. 49), s. 41, as to proof of declaration of service of process, and sect. 6 of the same Act as to civil debts. Sect. 4. Note.

Sect. 4.

by any like declaration taken in Scotland before a sheriff, justice of the peace, or other magistrate having the authority of a justice of the peace. Such indorsement may be in the form contained in the schedule to this Act annexed, or in a form to the like effect :

(2) Where any process requiring the appearance of a person to answer any information or complaint has been served in pursuance of this section, the court, before issuing a warrant for the apprehension of such person for failure so to appear, shall be satisfied on oath that there is sufficient *primâ facie* evidence in support of such information or complaint :

(3) If the process is to procure the attendance of a witness, the court issuing the process shall be satisfied on oath of the probability that the evidence of such witness will be material, and that the witness will not appear voluntarily without such process, and the witness shall not be subject to any liability for not obeying the process, unless a reasonable amount for his expenses has been paid or tendered to him :

(4) This Act shall not apply to any process requiring the appearance of a person to answer a complaint if issued by an English court of summary jurisdiction for the recovery of a sum of money which is a civil debt within the meaning of the Summary Jurisdiction Act, 1879, or if issued by a Scotch court in a case which falls within the definition of "civil jurisdiction" contained in the Summary Procedure Act, 1864.

Provision as to execution of process.

V. Where a person is apprehended under any process executed in pursuance of this Act, such person shall be forthwith taken to some place within the jurisdiction of the court issuing the process, and be there dealt with as if he had been there apprehended.

A warrant of distress issued in England when indorsed in pursuance of this Act shall be executed in Scotland as if it were a Scotch warrant of poinding and sale, and a Scotch warrant of poinding and sale when indorsed in pursuance of this Act shall be executed in England as if it were an English warrant of distress, and the enactments relating to the said warrants respectively shall apply accordingly, except that any account of the costs and charges in connection with the execution, or of the money levied thereby or otherwise relating to the execution, shall be made, and any money raised by the execution shall be dealt with in like manner as if the warrant had been executed within the jurisdiction of the court issuing the warrant.

Sect. 6.

Provision as to bastardy proceedings in England and Scotland.

VI. A court of summary jurisdiction in England and a sheriff court in Scotland shall respectively have jurisdiction by order or decree to adjudge a person within the jurisdiction of the court to pay for the maintenance and education of a bastard child of which he is the putative father, and for the expenses incidental to the birth of such child, and for the funeral expenses of such child, notwithstanding that such person ordinarily resides, or the child has been born, or the mother of it ordinarily resides, where the court is English, in Scotland, or where the court is Scotch, in England, in like manner as the court has jurisdiction in any other case.

Any process issued in England or Scotland to enforce obedience to such order or decree may be indorsed and executed in Scotland and England respectively in manner provided by this Act with respect to process of a court of summary jurisdiction.

Any bastardy order of a court of summary jurisdiction in England may be registered in the books of a sheriff court in Scotland, and thereupon a warrant of arrestment may be issued in like manner as if such order were a decree of the said sheriff court.

Saving.

VII. This Act shall be in addition to and not in derogation of any power existing under any other Act relating to the execution of any warrant or other process in England and Scotland respectively.

Definitions.

VIII. In this Act, unless the context otherwise requires,—

The expression "process" includes any summons or warrant of citation to appear either to answer any information or complaint, or as a witness; also any warrant of commitment, any warrant of imprisonment, any warrant of distress, any warrant of poinding and sale, also any order or minute of a court of summary jurisdiction or copy of such order or minute, also an extract decree, and any other document or process, other than a warrant of arrestment, required for any purpose connected with a court of summary jurisdiction to be served or executed.

The expression "Summary Jurisdiction Acts" as regards England has the same meaning as in the Summary Jurisdiction Act, 1879, and as regards Scotland, means the Summary Procedure Act, 1864, and any Act, past or future, amending that Act.

42 & 43 Vict. c. 49.
27 & 28 Vict. c. 53.

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Sect. 6.

Note.

This section does not enable a bastardy summons issued by justices in England to be served on the putative father in Scotland; and therefore where such summons is served in Scotland, and the person so served does not appear at the hearing, the justices have no jurisdiction to make an order (*Berkley* v. *Thompson*, 10 App. Cas. 45; 54 L. J. M. C. 57; 52 L. T. 1; 33 W. R. 525; 49 J. P. 276).

Sect. 8.

The expression "sheriff" shall include sheriff substitute.

The expression "court of summary jurisdiction" means any justice of the peace, also any officer or other magistrate having the authority in England or Scotland of a justice of the peace, also in Scotland the sheriff.

The expression "officer of a court of summary jurisdiction" means the constable, officer, or person to whom any process issued by the court is directed, or who is by law required or authorized to serve or execute any process issued by the court.

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SCHEDULE.

*Indorsement in backing a Process.*

Whereas proof hath this day been made before me, one of Her Majesty's justices of the peace [sheriff *or other magistrate*] for the [county *or* burgh] of , that the name of *A. B.* to the within warrant [*or* summons *or* order *or* minute, *or* copy of order *or* minute *or other document*] subscribed is of the handwriting of the justice of the peace [sheriff *or other magistrate*] within mentioned, I do therefore hereby authorize *C. D.* who bringeth to me this warrant [*or* summons *or* order *or* minute, *or* copy of order *or* minute *or other document*,] and all other persons by whom the same may be lawfully served [*or* executed], and also all constables and other peace officers of the said [county *or* burgh] of to serve and execute the same within the said last-mentioned [county *or* burgh].

Given under my hand this day of , 18 .

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# PUBLIC WORKS LOANS ACT, 1881.

44 & 45 VICT. CHAP. 38.

An Act to grant Money for the purpose of Loans by the Public Works Loan Commissioners and the Commissioners of Public Works in Ireland; and for other purposes relating to Loans by those Commissioners.

[22nd August, 1881.]

Short title.

[I.] This Act may be cited as the Public Works Loans Act, 1881.

* * * * *

*Amendment of Acts.*

Amendment of 38 & 39 Vict. c. 89, s. 22, as to rate of interest for loan.

VII. Where the Public Works Loan Commissioners have, either before or after the passing of this Act, in pursuance of the Public Works Loans Act, 1875, or of any enactment

repealed by that Act, taken possession of any mortgaged property, and after the passing of this Act advance any sum for the completion, repair, improvement, or security of that property, the rate of interest on such sum shall, notwithstanding anything in section twenty-two of the Public Works Loans Act, 1875, or any like enactment repealed by that Act, be not less than five per cent. per annum. Sect. 7.

VIII. The Local Government Board may make orders as to the expenses incurred by them or by any officer appointed by them in making or conducting any examination in pursuance of section thirty-six of the Public Works Loans Act, 1875, for the purpose of ascertaining that any loan or part of a loan advanced by the Public Works Loan Commissioners either before or after the passing of this Act, on the security of a rate, has been applied to the purpose for which the same was advanced. Expenses of ascertaining (under 38 & 39 Vict. c. 89, s. 36) that loans advanced by the Public Works Loan Commissioners have been properly applied.

Any such order may contain directions as to the parties by whom, and the rates out of which such expenses shall be borne, and on the application of the Local Government Board may be made a rule of the High Court of Justice in England, or of the High Court of Sessions in either division of the Inner House thereof in Scotland.

IX. The unapplied balance of any loan advanced by the Public Works Loan Commissioners, either before or after the passing of this Act, on the security of a rate, may, with the consent of the said commissioners, and of the central authority or department, if any, with whose sanction or consent such loan was authorized to be raised, be applied to any purpose to which monies borrowed on the security of such rate are properly applicable; and in construing section thirty-six of the Public Works Loans Act, 1875, and section four of the Public Works Loans Act, 1878, the purpose to which any such unapplied balance as aforesaid is so applied, shall be deemed to be the purpose for which that portion of the loan was advanced. Application of surplus balances of loans made by the Public Works Loan Commissioners.

41 Vict. c. 18.

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# ARMY ACT, 1881.

## 44 & 45 VICT. CHAP. 58.

An Act to consolidate the Army Discipline and Regulation Act, 1879, and the subsequent Acts amending the same.

[27th August, 1881.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and

temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Sect. 1.

*Preliminary.*

Short title of Act.

I. This Act may be cited for all purposes as the Army Act, 1881.

Mode of bringing Act into force.

II. This Act shall continue in force only for such time and subject to such provisions as may be specified in an annual Act of Parliament bringing into force or continuing the same.

* * * * *

Delivery of lunatic soldier on discharge with his wife or child at workhouse, or of dangerous lunatic at asylum.

XCI.—(1) A Secretary of State may, if he think proper, on account of a soldier's lunacy, cause any soldier of the regular forces on his discharge, and his wife and child, or any of them, to be sent to the parish or union to which under the statutes for the time being in force he appears, from the statements made in his attestation paper and other available information, to be chargeable ; and such soldier, wife, or child, if delivered after reasonable notice, in England or Ireland at the workhouse in which persons settled in such parish or union are received, and in Scotland to the inspector of poor of such parish, shall be received by the master or other proper officer of such workhouse or such inspector of poor, as the case may be :

(2) Provided that a Secretary of State, where it appears to him that any such soldier is a dangerous lunatic, and is in such a state of health as not to be liable to suffer bodily or mental injury by his removal, may, by order signified under his hand or under the hand of an under-secretary, send such lunatic direct to an asylum, registered hospital, licensed house, or other place in which pauper lunatics can legally be confined, and for the purpose of the said order the above-mentioned parish or union shall be deemed to be the parish or union from which such lunatic is sent.

(3) In England the lunatic shall be sent to the asylum, hospital, house, or place to which a person in the workhouse aforesaid, on becoming a dangerous lunatic, can by law be

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Sect. 1. Note.

This section was amended by the Army (Annual) Act, 1890 (53 & 54 Vict. c. 4), s. 4, by striking out the figures "1881."

Sect. 2. Note.

This Act is continued in force by the Annual Army Acts.

Sect. 91. Note. Sub-s. (2).

The effect of this sub-section is that the cost of the lunatic's maintenance will *primâ facie* be payable by the union to which he is sent, but that union may transfer its liability to some other union by proving a settlement in such other union, or to the county, by showing that he has no known place of settlement.

Sub-s. (3).

The words in brackets are amendments introduced respectively

Sect. 91.

removed, and an order of the Secretary of State under this section shall be of the same effect as [a summary reception order within the meaning of the Lunacy Act, 1890,] [and the like proceedings shall be taken thereon as on an order under that] [Act].

(4) The Secretary of State, before making the said order in respect of a lunatic who is liable to be delivered to the inspector of poor of a parish in Scotland, may require the inspector of poor of that parish to specify the asylum to which such lunatic if in the parish would be sent, and it shall be the duty of such inspector forthwith to specify such asylum, and thereupon the Secretary of State may make the said order for sending the lunatic to that asylum, and such order shall be of the same effect as an order by the sheriff within the meaning of section [fifteen of the Act of the session of the twenty-fifth and twenty-sixth years of the reign of Her present Majesty, chapter fifty-four, intituled "An Act to make further provision respecting Lunacy in Scotland," and the like proceedings shall be taken thereon as on an order under that section].

(5) In the case of any such [soldier], who is liable to be delivered at a workhouse in Ireland, at which persons settled in the said union are received, a Secretary of State may, by order under his hand, send such soldier to the asylum of the district in which such union is situate, and such order shall be of the same effect as a warrant under the hands and seals of two justices given under the provisions of the tenth section of the Act of the session of the thirtieth and thirty-first years of the reign of Her present Majesty, chapter one hundred and eighteen, intituled "An Act to provide for the Appointment of the Officers and Servants of District Lunatic Asylums in Ireland, and to alter and amend the law relating to the custody of dangerous lunatics and dangerous idiots in Ireland."

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Sect. 91.

Note.

by the Army (Annual) Act, 1891 (54 & 55 Vict. c. 5), s. 6; the Army (Annual) Act, 1889 (52 & 53 Vict. c. 3), s. 5; and the Army (Annual) Act, 1894 (57 & 58 Vict. c. 3), s. 5.

Sub-s. (3).

The attestation paper of a pauper lunatic soldier at the time of his enlistment stated that he was born in the parish of Chertsey, in the county of Surrey. The Secretary of State for War made an order for the reception of the pauper lunatic into the county asylum. No information could be obtained from the lunatic as to his birth-place, nor could it be ascertained by inquiry that he had at any time had a settlement in the parish of Chertsey. The justices, acting upon the evidence of the attestation paper, refused to make an order for his maintenance upon the county. Upon an appeal by the Chertsey Union, it was held that the justices were wrong and an order should have been made upon the county, under sect. 290 of the Lunacy Act, 1890 (*Chertsey Union* v. *Surrey, Clerk of the Peace*, 69 L. T. 384; 57 J. P. 807).

Sub-s. (4).

The words in brackets are an amendment introduced by the Army (Annual) Act, 1889 (52 & 53 Vict. c. 3), s. 5.

Sub-s. (5).

The word "soldier" is an amendment introduced by the Army (Annual) Act, 1889 (52 & 53 Vict. c. 3), s. 5.

Sect. 130.

Provision in case of insane persons.

CXXX.—(1) Where it appears on the trial by court-martial of a person charged with an offence that such person is by reason of insanity unfit to take his trial, the court shall find specially that fact; and such person shall be kept in custody in the prescribed manner until the directions of Her Majesty thereon are known, or until any earlier time at which such person is fit to take his trial.

(2) Where on the trial by court-martial of a person charged with an offence it appears that such person committed the offence, but that he was insane at the time of the commission thereof, the court shall find specially the fact of his insanity, and such person shall be kept in custody in the prescribed manner until the directions of Her Majesty thereon are known.

(3) In either of the above cases Her Majesty may give orders for the safe custody of such person during her pleasure, in such place and in such manner as Her Majesty thinks fit.

(4) A finding under this section shall be subject to confirmation in like manner as any other finding.

(5) If a person imprisoned by virtue of this Act becomes insane, then, without prejudice to any other provision for dealing with such insane prisoner, a Secretary of State in any case, and in the case of a prisoner confined in India the Governor-General of India, or the governor of any presidency in which the person is confined, and in the case of a prisoner confined in a colony the governor of that colony, may, upon a certificate of such insanity by two qualified medical practitioners, order the removal of such prisoner to an asylum or other proper place for the reception of insane persons in the United Kingdom, India, or the colony, according as the prisoner is confined in the United Kingdom, India, or the colony, there to remain for the unexpired term of his imprisonment, and, upon such person being certified in the like manner to be again of sound mind, may order his removal to any prison in which he might have been confined if he had not become insane, there to undergo the remainder of such punishment.

* * * * *

Deductions from pay.

CXXXVIII. The following penal deductions may be made from the ordinary pay due to a soldier of the regular forces:—

* * * * *

(8) The sum required to pay any sum ordered by a Secretary of State to be paid as mentioned in this Act for the maintenance

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Sect. 130.

Note.

The Criminal Lunatics Act, 1884 (47 & 48 Vict. c. 64), repeals so much of sub-sect. (5) of this section as relates to a person imprisoned in England. That Act contains the provisions now applicable to the detention, maintenance, and discharge of criminal lunatics.

of his wife or child, or of any bastard child, or towards the cost of any relief given by way of loan to his wife or child: Sect. 138.

Provided that—

(*a.*) The total amount of deductions from the ordinary pay due to a soldier in respect of the sums required to pay any compensation, fine, or sum awarded or ordered to be paid as aforesaid by a court martial, commanding officer, or Secretary of State shall not exceed such sum as will leave to the soldier, after paying for his messing and washing, less than one penny a day.

* * * * *

Exemption of soldiers in respect of civil process.

CXLIV.—(1) A soldier of Her Majesty's regular forces shall not be liable to be taken out of Her Majesty's service by any process, execution, or order of any court of law or otherwise, or to be compelled to appear in person before any court of law, except in respect of the following matters, or one of them; that is to say,

(*a.*) On account of a charge of or conviction for crime; or

(*b.*) On account of any debt, damages, or sum of money, when the amount exceeds thirty pounds over and above all costs of suit.

(2) For the purposes of this section a crime shall mean a felony, misdemeanour, or other crime or offence punishable, according to the law in force in that part of Her Majesty's dominions in which such soldier is, with fine or imprisonment or some greater punishment, and shall not include the offence of a person absenting himself from his service, or neglecting to fulfil his contract, or otherwise misconducting himself respecting his [contract].

(3) For the purposes of this section a court of law shall be deemed to include a court of summary jurisdiction and any magistrate.

(4) The amount of the debt, damages, or sum shall be proved for the purpose of any process issued before the court has adjudicated on the case by an affidavit of the person seeking to recover the same or of some one on his behalf, and such affidavit shall be sworn, without payment of any fee, in the manner in which affidavits are sworn in the court in which proceedings are taken for the recovery of the sum, and a memorandum of such affidavit shall, without fee, be indorsed upon any process or order issued against a soldier.

(5) All proceedings and documents in or incidental to a process, execution, or order in contravention of this section shall be void; and where complaint is made by a soldier or his commanding officer that such soldier is dealt with in contravention of this section by any process, execution, or order issued out of any court, and is made to that court or to any court superior

Sect. 144.

Amended by the Army (Annual) Act, 1882 (45 & 46 Vict. c. 7), s. 4, in order to correct a verbal error.

Note. Sub-s. (2).

Sect. 144.

to it, the court or some judge thereof shall examine into the complaint, and shall, if necessary, discharge such soldier without fee, and may award reasonable costs to the complainant, which may be recovered as if costs had been awarded in his favour in any action or other proceeding in such court.

Provided that—

(1) Any person having cause of action or suit against a soldier of the regular forces may, notwithstanding anything in this section, after due notice in writing given to the soldier, or left at his last quarters, proceed in such action or suit to judgment, and have execution other than against the person, pay, arms, ammunition, equipments, regimental necessaries, or clothing of such soldier; and

(2) This section shall not prevent such proceeding with respect to apprentices and indentured labourers as is authorized by this Act.

Liability of soldier to maintain wife and children.

CXLV.—(1) A soldier of the regular forces shall be liable to contribute to the maintenance of his wife and of his children, and also to the maintenance of any bastard child of which he may be proved to be the father, to the same extent as if he were not a soldier; but execution in respect of any such liability or of any order or decree in respect of such maintenance shall not issue against his person, pay, arms, ammunition, equipments, instruments, regimental necessaries, or clothing; nor shall he be liable to be punished for the offence of deserting or neglecting to maintain his wife or family, or any member thereof, or of leaving her or them chargeable to any union, parish, or place.

(2) When any order [or] decree is made under any Act or at common law for payment by a [man who is or subsequently becomes a] soldier of the regular forces either of the cost of the maintenance of his wife or child, or of any bastard child of whom he is the putative father, or of the cost of any relief given to his wife or child by way of loan, a copy of such order or decree shall be sent to a Secretary of State, and in the case—

(*a.*) Of such order or decree being so sent; or

(*b.*) Of it appearing to the satisfaction of a Secretary of State that a soldier of the regular forces has deserted or left

Sect. 145.

Note.

The words in brackets in this section are amendments introduced respectively by the Army (Annual) Act, 1882 (45 & 46 Vict. c. 7), s. 4; the Army (Annual) Act, 1891 (54 & 55 Vict. c. 5), s. 7; and the Army (Annual) Act, 1883 (46 & 47 Vict. c. 6), s. 7.

The statutory liability of a person to maintain his wife and children is imposed by the Poor Relief Act, 1601 (43 Eliz. c. 2), s. 6, and the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 33. Relief given by way of loan may be recovered either by proceedings before justices under sects. 58, 59, of the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), or in the county court under sect. 8 of the Poor Law Amendment Act, 1848 (11 & 12 Vict. c. 110).

Sect. 145.

in destitute circumstances, without reasonable cause, his wife or any of his legitimate children under fourteen years of age,

the Secretary of State [shall] order a portion not exceeding sixpence of the daily pay of a non-commissioned officer who is not below the rank of sergeant, and not exceeding threepence of the daily pay of any other soldier, to be deducted from such daily pay, and to be appropriated, in the first case, in liquidation of the sum adjudged to be paid by such order or decree, and in the second case, towards the maintenance of such wife or children, in such manner as the Secretary of State thinks fit.

(3) Where a proceeding is instituted against a soldier of the regular forces under any Act, or at common law, for the purpose of enforcing against him any such liability as above in this section mentioned, and such soldier is quartered out of the jurisdiction of the court, or, if the proceeding is before a court of summary jurisdiction, out of the petty sessional division in which the proceeding is instituted, the process shall be served on the commanding officer of such soldier, and such service shall not be valid unless there be left therewith, in the hands of the commanding officer, a sum of money (to be adjudged as costs incurred in obtaining the order or decree, if made against the soldier) sufficient to enable him to attend the hearing of the case and return to his quarters, and such sum may be expended by the commanding officer for that purpose; and no process whatever under any Act or at common law in any proceeding in this section mentioned shall be valid against a soldier of the regular forces if served after such soldier is under orders for service beyond the seas.

Officers not to be sheriffs or mayors.

CXLVI. [An officer of the regular forces on the active list within the meaning of any royal warrant for regulating the pay and promotion of the] regular forces shall not be capable of being nominated or elected to be sheriff of any county, borough, or other place, or to be mayor or alderman of, or to hold any office in, any municipal corporation in any city, borough, or place in the United Kingdom: [Provided that nothing in this section shall disqualify any officer for being elected to or being a member of a county council.]

Exemption from jury.

CXLVII. Every soldier in Her Majesty's regular forces shall be exempt from serving on any jury.

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Sect. 146.

Note.

The words within the first brackets were substituted by the Army (Annual) Act, 1889 (52 & 53 Vict. c. 3), s. 6, for the words "A person who is commissioned and in full pay as an officer in Her Majesty's"; and the words within the second brackets were added by the Army (Annual) Act, 1891 (54 & 55 Vict. c. 5), s. 8.

Sect. 163.

*Evidence.*

Regulations as to evidence.

CLXIII.—(1) The following enactments shall be made with respect to evidence in proceedings under this Act, whether before a civil court or a court-martial; that is to say,

(*a.*) The attestation paper purporting to be signed by a person on his being attested as a soldier, or the declaration purporting to be made by any person upon his re-engagement in any of Her Majesty's regular forces, or upon any enrolment in any branch of Her Majesty's service, shall be evidence of such person having given the answers to questions which he is therein represented as having given:

The enlistment of a person in Her Majesty's service may be proved by the production of a copy of his attestation paper purporting to be certified to be a true copy by the officer having the custody of the attestation paper without proof of the handwriting of such officer, or of his having the custody of the paper:

(*b.*) A letter, return, or other document respecting the service of any person in or the discharge of any person from any portion of Her Majesty's forces, or respecting a person not having served in or belonged to any portion of Her Majesty's forces, if purporting to be signed by or on behalf of a Secretary of State, or of the Commissioners of the Admiralty, or by the commanding officer of any portion of Her Majesty's forces, or of any of Her Majesty's ships, to which such person appears to have belonged, or alleges that he belongs or had belonged, shall be evidence of the facts stated in such letter, return, or other document:

(*c.*) Copies purporting to be printed by a Government printer of Queen's regulations, of royal warrants, of army circulars, and of rules made by Her Majesty, or a Secretary of State, in pursuance of this Act, shall be evidence of such regulations, royal warrants, army circulars, and rules:

(*d.*) An army list or gazette purporting to be published by authority, and either to be printed by a Government printer or to be issued, if in the United Kingdom, by Her Majesty's Stationery Office, and if in India, by some office under the Governor-General of India or the governor of any presidency in India, shall be evidence of the status and rank of the officers therein mentioned, and of any appointment held by such officers, and of the corps or battalion or arm or branch of the service to which such officers belong:

(*e.*) Any warrants or orders made in pursuance of this Act by

any military authority shall be deemed to be evidence of the matters and things therein directed to be stated by or in pursuance of this Act, and any copies of such warrants or orders purporting to be certified to be true copies by the officer therein alleged to be authorized by a Secretary of State or Commander-in-Chief to certify the same shall be admissible in evidence :

* * * * *

[Sub-sect. (*f*) is repealed by the Reserve Forces Act, 1882 (45 & 46 Vict. c. 48), s. 29.]

(*g.*) Where a record is made in one of the regimental books in pursuance of any Act or of the Queen's regulations, or otherwise in pursuance of military duty, and purports to be signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts thereby stated :

(*h.*) A copy of any record in one of the said regimental books purporting to be certified to be a true copy by the officer having the custody of such book shall be evidence of such record :

(*i.*) A descriptive return within the meaning of this Act, purporting to be signed by a justice of the peace, shall be evidence of the matters therein stated.

(2) For the purposes of this Act the expression "Government printer" means any printer to Her Majesty, and in India any Government press.

Interpretation of term "active service."

CLXXXIX.—(1) In this Act, if not inconsistent with the context, the expression "on active service" as applied to a person subject to military law means whenever he is attached to or forms part of a force which is engaged in operations against the enemy, or is engaged in military operations in a country or place wholly or partly occupied by an enemy, or is in military occupation of any foreign country.

(2) Where the governor of a colony in which any of Her Majesty's forces are serving, or if the forces are serving out of Her Majesty's dominions, the general officer commanding such forces, declares at any time or times that, by reason of the imminence of active service or of the recent existence of active service, it is necessary for the public service that the forces in the colony or under his command, as the case may be, should be temporarily subject to this Act, as if they were on active service, then, on the publication in general orders of any such declaration, the forces to which the declaration applies shall be deemed to be on active service for the period mentioned in the declaration, so that the period mentioned in any one declaration do not exceed three months from the date thereof.

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(3) If at any time during the said period the governor or general officer for the time being is of opinion that the necessity continues he may from time to time renew such declaration for another period not exceeding three months, and such renewal shall be published and have effect as the original declaration, and if he is of opinion that the said necessity has ceased, he shall state such opinion, and on the publication in general orders of such statement, the forces to which the declaration applies shall cease to be deemed to be on active service.

(4) Every such declaration, renewal of declaration, and statement by the governor of a colony shall be made by proclamation published in the official gazette of the colony, and it shall be the duty of every governor or general officer making a declaration or renewal of a declaration under this section, if he has the means of direct telegraphic communication with a Secretary of State, to obtain the previous consent of the Secretary of State to such declaration or renewal, and in any other case to report the same with the utmost practicable speed to the Secretary of State.

(5) The Secretary of State may, if he thinks fit, annul a declaration or renewal purporting to be made in pursuance of this section, without prejudice to anything done by virtue thereof before the date at which the annulment takes effect, and until that date any such declaration or renewal shall be deemed to have been duly made in accordance with this section, and shall have full effect.

Interpretation of terms.

CXC. In this Act, if not inconsistent with the context, the following expressions have the meanings herein-after respectively assigned to them; that is to say,

* * * * *

(4) The expression "officer" means an officer commissioned or in pay as an officer in Her Majesty's forces, or any arm, branch, or part thereof; it also includes a person who, by virtue of his commission, is appointed to any department or corps of Her Majesty's forces, or of any arm, branch, or part thereof; it also includes a person, whether retired or not, who, by virtue of his commission or otherwise, is legally entitled to the style and rank of an officer of Her Majesty's said forces, or of any arm, branch, or part thereof:

Warrant and other officers holding honorary commissions are officers within the meaning of this Act, subject to the exceptions in this Act mentioned:

(5) The expression "non-commissioned officer" includes an acting non-commissioned officer, and includes an army schoolmaster when not a warrant officer, but save as is in this Act mentioned does not include a warrant officer not holding an honorary commission:

(6) The expression "soldier" does not include an officer as defined by this Act, but, with the modifications in this Act contained in relation to warrant officers and non-commissioned officers, does include a warrant officer not having an honorary commission and a non-commissioned officer, and every person subject to military law during the time that he is so subject:

* * * * *

(9) The expression "reserve forces" means the army reserve force and the militia reserve force:

* * * * *

(12) The expression "auxiliary forces" means the militia, the yeomanry, and the volunteers:

* * * * *

(25) The expression "beyond the seas" means out of the United Kingdom, the Channel Islands, and Isle of Man; and the expression "station beyond the seas" includes any place where any of Her Majesty's forces are serving out of the United Kingdom, the Channel Islands, and Isle of Man:

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## ARMY (ANNUAL) ACT, 1882.

45 & 46 VICT. CHAP. 7.

An Act to provide, during twelve months, for the Discipline and Regulation of the Army. [28th April, 1882.]

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[I.] This Act may be cited as the Army (Annual) Act, 1882. Short title.

* * * * *

*Amendments of Army Act,* 1881.

[The Army Act, 1881, is 44 & 45 Vict. c. 58.]

* * * * *

IV. Whereas the misprints herein-after mentioned occur in the Army Act, 1881, and it is expedient to correct the same:

* * * * *

(4) In section one hundred and forty-four of the Army Act, 1881, the words "respecting his contract" shall be substituted for the words "respecting his conduct," in the second sub-section.

(5) In section one hundred and forty-five of the Army Act, 1881, the words "when any order or decree," shall be substituted for the words "when any order, decree," in the second sub-section.

* * * * *

Sect. 6.

Printing of amendments. See 33 & 34 Vict. c. 101.

VI. In all copies of the Army Act, 1881, which may be printed after the commencement of this Act the words by this Act directed to be substituted for other words shall be printed therein in lieu of the latter words, and the words directed by this Act to be added shall be added thereto.

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# DOCUMENTARY EVIDENCE ACT, 1882.

45 & 46 VICT. CHAP. 9.

An Act to amend the Documentary Evidence Act, 1868, and other Enactments relating to the Evidence of Documents by means of copies printed by the Government Printers.

[19th June, 1882.]

[The preamble, repealed by the S. L. R. Act, 1898, alluded to the following statutes: 31 & 32 Vict. c. 37; 33 & 34 Vict. c. 75, s. 83; 33 & 34 Vict. c. 79, s. 21; 34 & 35 Vict. c. 70, s. 5; 40 & 41 Vict. c. 21, s. 91; 40 & 41 Vict. c. 53, s. 58.]

Short title.

[I.] This Act may be cited as the Documentary Evidence Act, 1882.

Documents printed under superintendence of Stationery Office receivable in evidence.

II. Where any enactment, whether passed before or after the passing of this Act, provides that a copy of any Act of Parliament, proclamation, order, regulation, rule, warrant, circular, list, gazette, or document, shall be conclusive evidence, or be evidence, or have any other effect, when purporting to be printed by the Government printer, or the Queen's printer, or a printer authorized by Her Majesty, or otherwise under Her Majesty's authority, whatever may be the precise expression used, such copy shall also be conclusive evidence, or evidence, or have the said effect (as the case may be) if it purports to be printed under the superintendence or authority of Her Majesty's Stationery Office.

Penalty for forgery.

III. If any person prints any copy of any Act, proclamation, order, regulation, royal warrant, circular, list, gazette, or document which falsely purports to have been printed under the superintendence or authority of Her Majesty's Stationery Office, or tenders in evidence any copy which falsely purports to have been printed as aforesaid, knowing that the same was not so printed, he shall be guilty of felony, and shall, on conviction,

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Sect. 2. Note.

For the statutory provisions previously in force with regard to proof of poor law orders, see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 71; the Documentary Evidence Act, 1868 (31 & 32 Vict. c. 37), s. 2, and schedule; and the Local Government Board Act, 1871 (34 & 35 Vict. c. 70), s. 5.

be liable to penal servitude for a term not exceeding seven years, or to be imprisoned for a term not exceeding two years, with or without hard labour. Sect. 3.

IV. The Documentary Evidence Act, 1868, as amended by this Act, shall apply to proclamations, orders, and regulations issued by the Lord-Lieutenant or other chief governor or governors of Ireland, either alone or acting with the advice of the Privy Council in Ireland, as fully as it applies to proclamations, orders, and regulations issued by Her Majesty. Application of Act to Ireland.

In the same Act, the term "the Privy Council" shall include the Privy Council in Ireland, or any committee thereof.

In the same Act, and in this Act, the term "the Government printer" shall include any printer to Her Majesty in Ireland and any printer printing in Ireland under the superintendence or authority of Her Majesty's Stationery Office.

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## POOR RATE ASSESSMENT AND COLLECTION ACT, 1869, AMENDMENT ACT, 1882.

45 & 46 VICT. CHAP. 20.

An Act to amend the Poor Rate Assessment and Collection Act, 1869. [3rd July, 1882.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

I. This Act shall be called the Poor Rate Assessment and Collection Act, 1869, Amendment Act, 1882. Short title.

II. This Act and the Poor Rate Assessment and Collection Act, 1869, as amended, shall be read as one Act. Interpretation.

III. The provisions of the sixteenth section of the Poor Rate Assessment and Collection Act, 1869, so far as regards the 32 & 33 Vict. c. 41. Payment of rates by outgoing

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It was decided that the provisions of sect. 16 of 32 & 33 Vict. c. 41, did not relieve an occupier assessed in a poor rate, who ceased to occupy before the rate had been fully discharged, from his liability to pay the whole rate unless there was some tenant who succeeded to the occupation of the hereditament so as to become liable to pay a proportionate part of the rate (*St. Werburgh, Overseers of*, v. *Hutchinson*, 5 Ex. D. 19; 49 L. J. M. C. 23; 42 L. T. (N.S.) 153; 43 J. P. 785; *Hare* v. *Putney, Overseers of*, 7 Q. B. D. 223; 45 L. T. (N. S.) 337; 46 J. P. 100). The provision in the text was passed in consequence of these decisions. Sect. 3. Note.

Sect. 3.

occupier to be proportionate to time of occupation.

payment of rates by an outgoing occupier, shall extend and apply to any outgoing occupier assessed in the rate, and such outgoing occupier shall only be liable to pay so much of the rate as shall be proportionate to the time of his occupation within the period for which the rate was made, notwithstanding he may not be succeeded in his occupation by an incoming tenant.

Publication of rate where no parish church.

IV. In a parish in which there is no church or chapel of the parish, a poor rate, whether made before or after the passing of this Act, shall be deemed to have been duly published if, within fourteen days after the making of the rate, notice thereof has been given by affixing such notice in some public and conspicuous place or situation in the parish.

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# PLACES OF WORSHIP SITES AMENDMENT ACT, 1882.

45 & 46 VICT. CHAP. 21.

An Act to amend the Places of Worship Sites Act, 1873.
[12th July, 1882.]

[The preamble, repealed by the S. L. R. Act, 1898, recited the Places of Worship Sites Act, 1873 (36 & 37 Vict. c. 50).]

BE it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

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Sect. 4.

Note.

By the Poor Rate Act, 1743 (17 Geo. 2, c. 3), s. 1, public notice of every rate for the relief of the poor shall be given in the parish church the next Sunday after the allowance of the rate by the justices, and no rate shall be esteemed or reputed valid, and sufficient so as to collect or raise the same, unless such notice shall have been given. By the Parish Notices Act, 1837 (7 Will. 4 & 1 Vict. c. 45), a written notice, to be affixed on the doors of all the churches or chapels in the parish is substituted for any notice theretofore, by any law or statute, given in churches or chapels. By the Extra-Parochial Places Act, 1857 (20 Vict. c. 19), s. 1, every extra-parochial place wherein no rate is levied for the relief of the poor shall, for all purposes of assessment to the poor rate and the relief of the poor, be deemed a parish. Upon these provisions it was held that a rate could not be collected under the following circumstances: The overseer of a parish which, before the passing of 20 Vict. c. 19, was an extra-parochial place, made a rate for the relief of the poor, but did not publish any notice of the rate within the parish, there being no church or chapel within the parish (*Reg.* v. *Dyott*, 9 Q. B. D. 47; 47 J. P. 54). The provision in the text was passed in consequence of this decision.

Sect. 1.

Conveyance of lands by corporations and other public bodies.

I. The Places of Worship Sites Act, 1873, shall be construed as extending to authorize any corporation, ecclesiastical or lay, whether sole or aggregate, and any officers, justices of the peace, trustees, or commissioners holding land for public, ecclesiastical, parochial, charitable, or other purposes or objects, to grant, convey, or enfranchise for the purposes of the Act such quantity of land as therein mentioned: Provided as follows:

(*a.*) An ecclesiastical corporation sole, being below the dignity of a Bishop, shall not make any such grant without the consent in writing of the Bishop of the diocese to whose jurisdiction he is subject:

(*b.*) A municipal corporation shall not make any such grant without the consent in writing of the Treasury:

(*c.*) Parochial property shall not be so granted without the consent of a majority of the ratepayers and owners of property in the parish to which the property belongs, assembled at a meeting to be convened according to the mode pointed out in the Act of the session held in the fifth and sixth years of the reign of King William the Fourth, chapter 69, intituled "An Act to facilitate the Conveyance of Workhouses and other Property of Parishes, and of incorporations or unions of parishes in England and Wales," and of the Local Government Board and of the guardians of the poor of the parish or of the union comprising the parish, testified by their being parties to the conveyance:

5 & 6 Will. 4, c. 69.

(*d.*) Property held on trust for charitable purposes shall not be so granted without the consent of the Charity Commissioners.

Power for limited owner in case of unborn or unascertained remainderman to convey, &c.

II. The said Act shall be construed as extending to authorize any person seised or entitled only for life or lives of or to any manor or lands of freehold tenure to make such grant, conveyance, or enfranchisement as is mentioned in the said Act in cases where the person next entitled to the same for a beneficial interest in remainder in fee simple or fee tail is unborn or unascertained: Provided that no such grant, conveyance, or enfranchisement made by any such person seised only for a life or lives shall be valid unless the person seised or entitled for a beneficial interest for life or lives, or for an estate in fee simple or fee tail (as the case may be) in remainder immediately expectant on the estate of such unborn or unascertained person of or to such manor or lands (if any, and if legally competent) shall be a party to and shall join in the same; and if there be

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Sect. 1.

Note.

By the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 8, no consent other than that of the Local Government Board shall be required to the sale, exchange, or letting by the board of guardians of any separate parish of any workhouse, tenements, buildings or land belonging to such parish.

Sect. 2.

no such person, or if such person be not legally competent, unless the trustees or trustee (if any) of such manor or lands during the suspense or contingency of the then immediate or expectant estate in fee simple or fee tail in such manor or lands shall in like manner concur.

Short title.

III. This Act may be cited as the Places of Worship Sites Amendment Act, 1882.

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# HIGHWAY RATE ASSESSMENT AND EXPENDITURE ACT, 1882.

45 & 46 VICT. CHAP. 27.

An Act to extend certain Provisions of the Poor Rate Assessment and Collection Act, 1869, to the Highway Rate, and for other purposes. [12th July, 1882.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short title.

I. This Act may be cited as the Highway Rate Assessment and Expenditure Act, 1882.

Extent of Act.

II. This Act shall not extend to Scotland or to Ireland.

Power to rate and compound with owner of small tenements. (32 & 33 Vict. c. 41.)

III. Where in any parish the vestry have, under section four of the Poor Rate Assessment and Collection Act, 1869, ordered or shall hereafter order that the owners of all rateable hereditaments to which section three of that Act extends shall be rated to the poor rate in respect of such hereditaments instead of the occupiers, such order shall be deemed to extend to and include the highway rate, and whilst such order is in force the respective owners of such hereditaments shall be rated and assessed instead of the occupiers thereof to the highway rates made after the passing of this Act for any highway parish which is co-extensive with such parish or with any part thereof, and to which otherwise such occupiers might by law be rated ; subject nevertheless to the abatements or deductions and to the conditions specified in sections four and five of the said Act ; and for the purposes of this section the term "overseers" in section four of the said Act shall be construed to mean "surveyor of highways or other person authorized by law to make and levy a highway rate."

The surveyor of highways, or other person authorized by

law to make and levy a highway rate, shall have the same powers, remedies, and privileges for recovering the rates made under this Act upon owners, as the overseers of the poor have under the said Poor Rate Assessment and Collection Act, 1869, for the recovery of a poor rate, and when the overseers are required by law to levy the highway rate, and such rate applies to the whole parish, they may levy the same as part of the poor rate. Sect. 3.

*Section thirty of the Highway Act, 1835, relating to the composition for rates in certain cases under local Acts is hereby repealed.* 5 & 6 Will. 4, c. 50.

IV. In every highway rate made after the passing of this Act the several hereditaments included therein and assessable to the poor rate shall be rated according to the annual rateable value thereof appearing in the valuation list for the time being in force in the parish which is co-extensive with or includes the highway parish to which the highway rate relates, and where any valuation list has been amended on objection pursuant to section one of the Union Assessment Committee Amendment Act, 1864, the assessment committee shall give notice of such amendment to the surveyor of highways or other person authorized to make and levy the highway rate, who shall thereupon alter the then current highway rate accordingly. Valuation lists conclusive for highway rate. 27 & 28 Vict. c. 39.

V. If the rates levied by a surveyor of highways, together with any other sums received by him during his term of office, prove insufficient to meet the whole of the expenditure lawfully incurred by him, and such deficiency has not arisen from any neglect or default on his part, his successor in office may reimburse to him the amount of such deficiency. Provision for balances of outgoing surveyors.

VI. The expenses incurred by a highway authority in maintaining, replacing, or setting up mile stones on any highway, and in fencing by posts and rails or otherwise a highway where such fencing is required for the protection of persons travelling thereon against danger, shall be a lawful charge upon the highway rate. Power to maintain mile stones and to fence.

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The last paragraph of this section is repealed by the S. L. R. Act, 1898. Sect. 3. Note.

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There is no highway rate in districts where the rural district council are the highway authority, highway expenses in such districts being defrayed as general expenses (Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 29). Sect. 4. Note.

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This power is similar to that given to overseers by the Poor Law Amendment Act, 1743 (17 Geo. 2, c. 28), s. 11. Sect. 5. Note.

Sect. 7.

Waywardens' rate accounts.

41 & 42 Vict. c. 77.

42 & 43 Vict. c. 6.

VII. The provisions of section nine of the Highways and Locomotives (Amendment) Act, 1878, as amended by the District Auditors Act, 1879, in relation to the audit of the accounts of highway authorities and their officers shall extend to the accounts of a waywarden of any highway parish within a highway district with respect to the highway rates levied by him.

Recovery and payment of certified balances.

VIII. Monies, goods, or chattels certified by an auditor at a highway audit to be due from any person shall be recoverable by the like process and with the like powers as in the case of monies, goods, or chattels certified at the audit of the poor rate accounts, and where an auditor shall take proceedings for the recovery of any monies, goods, or chattels certified at a highway audit or shall lay any information for a penalty in consequence of the default of any officer or other person to attend any such audit or to produce the proper accounts or vouchers, or to make or sign the proper declaration before him the costs incurred by the auditor, when not recovered from the defendant, shall, if the Local Government Board consent thereto, be paid to the auditor by the highway authority, and may be recovered from such authority in a summary manner.

The monies certified at a highway audit shall, where there is a treasurer of the highway authority, be paid to such treasurer, and where there is no such officer to the highway authority for the time being; and the goods or chattels so certified shall be delivered over to the person authorized to receive the same.

Provision as to excluded parts of parishes.

IX. Where at the time of the passing of this Act part of a parish is excluded from an urban sanitary district, but such

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Sect. 7.

Note.

The 41 & 42 Vict. c. 77, s. 9, requires the accounts of a highway authority to be made up in the form prescribed by the Local Government Board, and balanced to March 25th in each year, and audited by the district auditor. The Local Government Act, 1888, (51 & 52 Vict. c. 41), s. 73, alters the date of the annual balance from March 25th to March 31st, in each year.

Rates are levied by a waywarden in a highway parish when such parish does not separately maintain its own poor (Highway Act, 1864 (27 & 28 Vict. c. 101), s. 33).

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Sect. 8.

Note.

The principal statutory provisions relating to a poor law audit, which are by this section made applicable to a highway audit, will be found in the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), ss. 32, 33, 35, 36; the Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91), s. 4; the Poor Law Amendment Act, 1866 (29 & 30 Vict. c. 113), s. 6; and the Summary Jurisdiction Act, 1884 (47 & 48 Vict. c. 43), s. 11.

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Sect. 9.

Note.

See as to the excluded part of a parish, the Public Health Act, 1875 (38 & 39 Vict. c. 55), s. 216.

excluded part is for purposes connected with the repairs of highways and the payment of highway rates treated as forming part of the district, the owners and ratepayers of the excluded part may by resolution passed at a meeting to be convened and conducted in manner provided by schedule III. of the Public Health Act, 1875, decide that such part shall be a highway parish, and if the resolution is approved by an order of the Local Government Board the excluded part shall from a date to be fixed by the said order be for all purposes connected with highways, surveyors of highways, and highway rates, considered and treated as a separate highway parish. Sect. 9. 38 & 39 Vict. c. 55.

X. In this Act— Interpretation.

"Highway audit" means the audit of the accounts of a highway authority or their officers or of any waywarden:

"Highway authority" means as respects a highway district, the highway board, and as respects a highway parish not included in a highway district, the surveyor or surveyors or other officers performing similar duties:

"Highway rate" means a rate made for the repairs of the highways and includes any separate rate made to meet the orders or precepts of a highway authority:

"Parish" means a place for which a separate poor rate can be made:

"Highway parish" means a place separately maintaining its own highways, and, in a highway district, a place for which a waywarden may be elected or a separate highway rate be made.

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# BATHS AND WASH HOUSES, ACT, 1882.

45 & 46 VICT. CHAP. 30.

An Act to amend the Baths and Wash Houses Acts.

[24th July, 1882.]

[*Preamble.*]

BE it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

I. This Act may be cited for all purposes as the Baths and Wash Houses Act, 1882, and shall be read as one with the Short title.

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This is one of the "adoptive Acts" in the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 7. Sect. 1. Note.

Sect. 1.

Act of the ninth and tenth years of the reign of Her present Majesty, chapter seventy-four, in this Act called "the principal Act."

Amendment of 9 & 10 Vict. c. 74, s. 27.

II. Section twenty-seven of the principal Act shall be amended by the addition of the words "or in the immediate neighbourhood of such borough or parish" to the words "in any such borough or parish" wherever such last-mentioned words occur in the said section.

Amendment of 9 & 10 Vict. c. 74, s. 24.

III. The power conferred by section twenty-four of the principal Act to purchase or rent lands for the purposes of that Act shall extend to lands in the immediate neighbourhood of such borough or parish as is therein referred to.

## CASUAL POOR ACT, 1882.

45 & 46 VICT. CHAP. 36.

An Act to amend the Pauper Inmates Discharge and Regulation Act, 1871. [10th August, 1882.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title and construction.
34 & 35 Vict. c. 108.

I. This Act may be cited as the Casual Poor Act, 1882, and shall be construed as one with the Pauper Inmates Discharge and Regulation Act, 1871.

[Sect. 2. *Commencement of Act:* Repealed by the S. L. R. Act, 1898.]

Extent of Act.

III. This Act shall not extend to Scotland or Ireland.

Discharge of paupers.
[34 & 35 Vict. c. 108, s. 4.]

IV. *Section five of the Pauper Inmates Discharge and Regulation Act,* 1871, *is hereby repealed, and in lieu thereof it is hereby enacted as follows:*

A casual pauper shall not be entitled to discharge himself from a casual ward before nine o'clock in the morning of the second day following his admission, nor before he has performed the work prescribed for him as in the said Act mentioned; and

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Sect. 4.
Note.

The term "casual pauper" means any destitute wayfarer or wanderer applying for or receiving relief. The term "casual ward" means any ward or wards, building or premises, set apart or provided for the reception and relief of destitute wayfarers and wanderers: (34 & 35 Vict. c. 108, s. 3).

The words in italics are repealed by the S. L. R. Act, 1898.

Sect. 4.

where a casual pauper has been admitted on more than one occasion during one month into any casual ward of the same union, he shall not be entitled to discharge himself before nine o'clock in the morning of the fourth day after his admission, and he may at any time during that interval be removed by any officer of the guardians, or by a police constable, to the workhouse of the union, and be required to remain in such workhouse for the remainder of the period of his detention.

Provided that in computing the number of days during which a casual pauper may be detained under this section Sunday shall not be included.

Provided also, with respect to the metropolis, as follows:—

(1) In determining the number of admissions of a casual pauper every casual ward in the metropolis shall be deemed to be a casual ward of the same union.

(2) The expressions "workhouse of the union" in this section shall include any workhouse and any asylum provided under the Metropolitan Poor Act, 1867, for the reception and setting to work of the casual poor, to which the casual poor of the union can be sent.

Penalty for obtaining poor relief by false statement. [34 & 35 Vict. c. 108, s. 7. 39 & 40 Vict. c. 61, s. 44.]

V.—(1) If any person for the purpose of obtaining relief from the rates raised for the relief of the poor, for himself or for any other person, wilfully gives a false name, or makes or uses a false statement to the guardians of any union or any of their officers, he shall be deemed an idle and disorderly person within the meaning of section three of the Act of the fifth year of King George the Fourth, chapter eighty-three, "for the punishment of idle and disorderly persons, and rogues and vagabonds, in that part of Great Britain called England."

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Sect. 5.

Note.

It is provided by the Casual Poor Act, 1871 (34 & 35 Vict. c. 108), s. 7, that any pauper who wilfully gives a false name, or makes a false statement for the purpose of obtaining relief, shall be deemed an idle and disorderly person within the meaning of the Vagrant Act, 1824. By the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 44, the word "pauper" in the last-mentioned section is to include any person who shall obtain relief by wilfully giving a false name, or making a false statement, and such person may be proceeded against as an idle and disorderly person at any time while he continues to receive such relief. The provision in this section extends the application of those enactments.

# BILLS OF SALE ACT (1878) AMENDMENT ACT, 1882.

45 & 46 VICT. CHAP. 43.

An Act to amend the Bills of Sale Act, 1878.
[18th August, 1882.]

Sect. 14.

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Bill of sale not to protect chattels against poor and parochial rates.

XIV. A bill of sale to which this Act applies shall be no protection in respect of personal chattels included in such bill of sale which but for such bill of sale would have been liable to distress under a warrant for the recovery of taxes and poor and other parochial rates.

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# RESERVE FORCES ACT, 1882.

45 & 46 VICT. CHAP. 48.

An Act to consolidate the Acts relating to the Reserve Forces.
[18th August, 1882.]

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VII. A man belonging to the army reserve shall not be liable to serve the office of constable, or any other parochial, township or borough office.

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Sect. 14.

Note.

This Act does not apply to bills of sale given otherwise than by way of security for the payment of money (sect. 3).

"Parochial rates" have been held to include a county rate (*Reg.* v. *Aylesbury, Overseers*, 9 Q. B. 261); a rate made and levied under a local Act for paving and lighting and providing watchmen and water pipes for a city (*Reg.* v. *St. Thomas, Exeter*, L. R. 5 Q. B. 371; 39 L. J. M. C. 83; 34 J. P. 71; S. C. *Exeter Union* v. *St. Thomas' Union*, 22 L. T. (N. S.) 379); a borough watch rate (*Everton* v. *South Stoneham*, 2 E. & E. 771; 29 L. J. M. C. 165; 5 Jur. (N. S.) 606; 8 W. R. 523). But it does not include a general district rate of an urban sanitary authority which is imposed upon a district which may or may not include one or more parishes, and might before the Local Government Act, 1894, have included only part of a parish (*Richards* v. *Kidderminster, Overseers*, [1896] 2 Ch., p. 217; 65 L. J. Ch. 502; 74 L. T. 483; 44 W. R. 505).

This section, which postpones the debt secured by the bill of sale to claims for parochial rates, does not apply where the local authority proceeds to recover the rate in default in the county court under sect. 261 of the Public Health Act, 1875, and not by distress (*Wimbledon Local Board* v. *Underwood*, [1892] 1 Q. B. 836; 61 L. J. Q. B. 484; 67 L. T. 55; 40 W. R. 640; 56 J. P. 633).

# MILITIA ACT, 1882.

45 & 46 VICT. CHAP. 49.

An Act to consolidate the Acts relating to the Militia.
[18th August, 1882.]

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XLI. A person in the militia shall not be compelled to serve as a peace or parish officer. Sect. 41.

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# THE MUNICIPAL CORPORATIONS ACT, 1882.

45 & 46 VICT. CHAP. 50.

An Act for consolidating, with Amendments, enactments relating to Municipal Corporations in England and Wales.
[18th August, 1882.]

[Those sections only of this Act are printed here which have relation to the duties of overseers or to matters appertaining to the poor law, or which are referred to directly or by implication in statutes relating to the poor law.]

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## PART I.

### PRELIMINARY.

I. This Act may be cited as the Municipal Corporations Act, 1882. Short title.

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VII.—(1) In this Act— Interpretation and construction.

"Burgess" includes citizen:

"Municipal election" means an election to a corporate office:

"Parish" means any place for which a separate poor rate is or can be made:

"Overseers" means overseers of the poor of a parish, township, or place, and includes all persons who execute the duties of overseers:

"County" does not include a county of a city or county of a town, but includes a riding, parts, division, or liberty of a county:

* * * * *

Sect. 7.

(3) Words in this Act referring to a parish shall be construed, unless a contrary intention appears, as referring to every parish situate wholly or in part in a borough.

## PART II.

## CONSTITUTION AND GOVERNMENT OF BOROUGH.

* * * * *

### *Burgesses.*

Qualification of burgess.

IX.—(1) A person shall not be deemed a burgess for any purpose of this Act unless he is enrolled as a burgess.

(2) A person shall not be entitled to be enrolled as a burgess unless he is qualified as follows:

(*a.*) Is of full age; and

(*b.*) Is on the fifteenth of July in any year, and has been during the whole of the then last preceding twelve months, in occupation, joint or several, of any house, warehouse, counting-house, shop, or other building (in this Act referred to as qualifying property) in the borough; and

(*c.*) Has during the whole of those twelve months resided in the borough, or within seven miles thereof; and

(*d.*) Has been rated in respect of the qualifying property to

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Sect. 9.

Note.

By the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 2, this section is extended to county electors outside municipal boroughs.

Sub-s. (1).

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 20 (2), one of the alternative qualifications for a guardian for a parish wholly or partly situate within the area of a borough, whether a county borough or not, is that he is qualified to be elected a councillor for that borough, and by sect. 11 (2) of this Act, a person shall not be qualified to be elected a councillor unless he is enrolled and entitled to be enrolled as a burgess.

Sub-s. (2).

By the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 3, a further qualification for a burgess is added to this list by occupation of land or tenement of the annual value of 10*l.*

By the Municipal Voters Relief Act, 1885 (48 & 49 Vict. c. 9), s. 2, letting a furnished house for a period not exceeding *four months in the whole* during the qualifying period, and residing meanwhile elsewhere than in or within seven miles of the borough does not disqualify. By the Electoral Disabilities Removal Act, 1891 (54 & 55 Vict. c. 11), s. 2, temporary absence from a dwelling-house or lodgings in performance of duty during the qualifying period, for a period not exceeding *four months at any one time* does not disqualify. By the Police Disabilities Removal Acts, 1887 (50 & 51 Vict. c. 9), and 1893 (56 & 57 Vict. c. 6), temporary absence of a police officer from his dwelling-house on duty during part of the qualifying period not exceeding *four consecutive months* does not disqualify, and the Acts which disqualify the police from voting at municipal and other elections are repealed.

all poor rates made during those twelve months for the parish wherein the property is situate; and Sect. 9.

(*c.*) Has on or before the twentieth of the same July paid all such rates, including borough rates (if any), as have become payable by him in respect of the qualifying property up to the then last preceding fifth of January.

(3) Every person so qualified shall be entitled to be enrolled as a burgess, unless he—

(*a.*) Is an alien; or

(*b.*) Has within the twelve months aforesaid received union or parochial relief or other alms; or

(*c.*) Is disentitled under any Act of Parliament.

*Council; Mayor, Aldermen, and Councillors.*

X.—(1) The municipal corporation of a borough shall be capable of acting by the council of the borough, and the council shall exercise all powers vested in the corporation by this Act or otherwise.

(2) The council shall consist of the mayor, aldermen, and councillors. Constitution of council.

XI.—(1) The councillors shall be fit persons elected by the burgesses. Qualification of councillor.

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Sect. 9. Note. Sub-s. (3).

As to what constitutes union or parochial relief, see the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 56. The Medical Relief Disqualification Act, 1885 (48 & 49 Vict. c. 46), operates to allow a person who has received the relief there mentioned to be placed on the burgess roll, but does not remove the disqualification which such relief entails for voting at the election of guardians. The words "other alms" occur in the disqualifying section of the Representation of the People Act, 1832 (2 & 3 Will. 4, c. 45), s. 36, and the following cases decided under that section, in which the receipt of alms from charities administered by trustees or by parish officers was alleged as a disqualification, will apply to this section (*Harrison* v. *Carter*, 2 C. P. D. 26; 46 L. J. C. P. 27; 35 L. T. 511; 25 W. R. 182; *Baker* v. *Town Clerk of Monmouth*, 34 W. R. 64; 53 L. T. 668; 49 J. P. 776; *Dix* v. *Kent*, 63 L. T. 641; 55 J. P. 213; 39 W. R. 173; *Edwards* v. *Lloyd*, 20 Q. B. D. 302; 57 L. J. Q. B. 121; 58 L. T. 409). For the various Acts of Parliament which disqualify, see Archbold's Poor Law, 15th ed., pp. 81, 88.

Sect. 11. Note. Sub-s. (1).

By the Local Government Act, 1894 (56 & 57 Vict. c. 43), s. 20 (2), one of the alternative qualifications for a guardian for a parish wholly or partly situate within the area of a borough, whether a county borough or not, is that he is qualified to be elected a councillor for that borough.

Although a woman may vote and be a burgess (sect. 63, *infra*), she cannot be a councillor (*Hope* v. *Lady Sandhurst*, 23 Q. B. D. 79; 58 L. J. Q. B. 316; 61 L. T. 150; 37 W. R. 548; 53 J. P. 805; *De Souza* v. *Cobden*, [1891] 1 Q. B. 687; 60 L. J. Q. B. 533; 65 L. T. 130; 39 W. R. 454; 55 J. P. 565); and consequently,

Sect. 11.

(2) A person shall not be qualified to be elected or to be a councillor, unless he—

(*a.*) Is enrolled and entitled to be enrolled as a burgess; or

(*b.*) Being entitled to be so enrolled in all respects except that of residence, is resident beyond seven miles but within fifteen miles of the borough, and is entered in the separate non-resident list directed by this Act to be made; and

(*c.*) In either of those cases, is seised or possessed of real or personal property or both, to the value or amount, in the case of a borough, having four or more wards, of one thousand pounds, and in the case of any other borough, of five hundred pounds, or is rated to the poor rate in the borough, in the case of a borough having four or more wards, on the annual value of thirty pounds, and in the case of any other borough of fifteen pounds.

(3) Provided, that every person shall be qualified to be elected and to be a councillor, who, is at the time of election, qualified to elect to the office of councillor; which last-mentioned qualification for being elected shall be alternative for and shall not repeal or take away any other qualification.

(4) But if a person qualified under the last foregoing proviso ceases for six months to reside in the borough, he shall cease to be qualified under that proviso, and his office shall become vacant, unless he was at the time of his election and continues to be qualified in some other manner.

Disqualifications for being councillor.

XII.—(1) A person shall be disqualified for being elected and for being a councillor, if and while he—

(*a.*) Is an elective auditor *or a revising assessor*, or holds any office or place of profit, other than that of mayor or sheriff, in the gift or disposal of the council; or

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Sect. 11. Note. Sub-s. (1).

although by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 20 (2) "no person shall be disqualified by sex or marriage for being elected or being a guardian," a woman cannot rely upon the qualification that she is entitled to be elected a councillor of the borough, but must rely upon one of the other qualifications mentioned in sect. 20 (2) of that Act.

Sub-ss. (3),(4).

See sect. 49, *infra*, as to the separate non-resident list.

The words "qualified to elect" to the office of councillor have not the same meaning as "entitled to vote" for that office, and therefore, if any person is wrongly enrolled on the burgess list, he is not qualified to be elected a councillor, although he may vote under sect. 51 (*Flintham* v. *Roxburgh*, 17 Q. B. D. 44; 55 L. J. Q. B. 472; 54 L. T. 797; 34 W. R. 543; 50 J. P. 311).

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Sect. 12.

By the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4, revising assessors are no longer elected.

Note. Sub-s. (1).

The clause as to disqualification of a councillor by reason of interest in contract is very similar to the corresponding clause as to disqualification of a guardian contained in sect. 46 (1) of the

(*b.*) Is in holy orders, or the regular minister of a dissenting congregation; or

(*c.*) Has directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by, or on behalf of the council:

(2) But a person shall not be disqualified, or be deemed to have any share or interest in such a contract or employment, by reason only of his having any share or interest in—

(*a.*) Any lease, sale, or purchase of land, or any agreement for the same; or

(*b.*) Any agreement for the loan of money, or any security for the payment of money only; or

(*c.*) Any newspaper in which any advertisement relating to the affairs of the borough or council is inserted; or

(*d.*) Any company which contracts with the council for lighting or supplying with water or insuring against fire any part of the borough; or

(*e.*) Any railway company, or any company incorporated by Act of Parliament or Royal charter, or under the Companies Acts, 1862. 25 & 26 Vict. c. 89.

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*Supplemental and Exceptional Provisions.*

XXXI. In and for the purposes of this Act— Occupation of part of house.

(*a.*) The terms house, warehouse, counting house, shop, or

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Local Government Act, 1894 (56 & 57 Vict. c. 73), *post*, to the notes on which the reader is referred. **Sect. 12.**

It follows from this sub-section, read in conjunction with sect. 20 (2) of the Local Government Act, 1894, that the clergyman or the regular minister of a dissenting congregation is not qualified to be elected a guardian for a parish in a borough unless he is either a parochial elector of some parish within the union or has resided in the union during the whole of the twelve months preceding the election. **Note. Sub-s. (1).**

As to disqualification by reason of a contract with the council, see *Re Gloucester Municipal Election Petition; Ford* v. *Newth*, [1901] 1 K. B. 683, distinguishing *Bolton Partners* v. *Lambert*, [1889] 41 Ch. D. 295, and the cases therein cited.

A sale or lease of lands either *by* or *to* a council falls within the exception (*a*) of this sub-section (*Reg.* v. *Gaskarth*, 5 Q. B. D. 321; 49 L. J. Q. B. 509; 42 L. T. 688; 28 W. R. 596; 44 J. P. 507); and the length of the term for which lands are let is immaterial (*Nell* v. *Longbottom*, [1894] 1 Q. B. 767; 63 L. J. Q. B. 490; 70 L. T. 499; and see *Burgess* v. *Clark*, 14 Q. B. D. 735). **Sub-s. (2).**

As to what may be a "security for the payment of money only," see *Lefeuvre* v. *Lancaster*, 3 E. & B. 550; 23 L. J. Q. B. 254; 18 Jur. 894; 18 J. P. 198.

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This section is by the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 2, extended to so much of every county as is not comprised within the limits of a municipal borough. **Sect. 31. Note.**

Occupation of part of a dwelling-house, for the purposes of a

Sect. 31.

other building include any part of a house, where that part is separately occupied for the purposes of any trade, business, or profession; and any such part may, for the purpose of describing the qualification, be described as office, chambers, studio, or by any like term applicable to the case.

(*b.*) Where an occupier is entitled to the sole and exclusive use of any part of a house, that part shall not be deemed to be occupied otherwise than separately by reason only that the occupier is entitled to the joint use of some other part.

Claim by occupier to be rated.

XXXII.—(1) If an occupier of any qualifying property, whether the landlord is or is not liable to be rated to the poor rate in respect thereof, claims to be rated to the poor rate in respect thereof, and pays or tenders to the overseers of the parish where the property is situate the full amount of the poor rate last made in respect of the property, the overseers shall put the occupier's name on the rate-book in respect of that rate.

(2) If they fail to do so, he shall nevertheless for the purposes of this Act be deemed rated to that rate.

Rules as to qualification of burgess on succession, &c

XXXIII.—(1) Where a person succeeds to qualifying property by descent, marriage, marriage settlement, devise, or promotion to a benefice or office, then, for the purpose of qualification, the occupancy of the property by a predecessor in title, and the rating of the predecessor in respect thereof, shall be equivalent to the occupancy and rating of the successor;

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Sect. 31. Note.

private dwelling only, constitutes occupation of a "house" within sects. 9 and 31 of this Act, so as to confer the municipal franchise upon the occupier (*Greenway* v. *Bachelor*, *Aldridge's Case*, 12 Q. B. D. 381; 53 L. J. Q. B. 180; 50 L. T. 272; 32 W. R. 319; 47 J. P. 729).

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Sect. 32. Note.

As to the duty of overseers to insert the names of all occupiers in a rate, see the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), s. 19, and the Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 14. This section seems to be a superfluous enactment, as the qualification of an occupier to vote when the landlord is rated is provided for by the first-mentioned Act. (See *Marsh* v. *Estcourt*, 24 Q. B. D. 147; 59 L. J. Q. B. 100; 38 W. R. 495; 54 J. P. 204.)

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Sect. 33. Note.

This section is by the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 2, extended to so much of every county as is not comprised within the limits of a municipal borough.

As to the provisions in sub-sect. (4) (*a*), see now the Medical Relief Disqualification Removal Act, 1885 (48 & 49 Vict. c. 46); and as to the provisions of sub-sect. (4) (*b*), see the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), s. 10.

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and rating in the name of the predecessor shall, until a new rate is made after the date of succession, be equivalent to rating in the name of the successor; and the successor shall not be required to prove his own residence, occupancy, or rating before the succession.

(2) The qualifying property need not be throughout the twelve months constituting the period of qualification the same property or in the same parish.

(3) Where by law a borough rate is payable by instalments, payment by any person of any such instalment shall, as regards his qualification to be enrolled as a burgess, be deemed a payment of the borough rate in respect of the period to which the instalment applies.

(4) A person shall not be disentitled to be enrolled as a burgess by reason only—

(*a.*) That he has received medical or surgical assistance from the trustees of the municipal charities, or has been removed, by order of a justice, to a hospital or place for reception of the sick, at the cost of any local authority; or

(*b.*) That his child has been admitted to and taught in any public or endowed school.

Obligation to accept office or pay fine.

XXXIV.—(1) Every qualified person elected to a corporate office, unless exempt under this section or otherwise by law, either shall accept the office by making and subscribing the declaration required by this Act within five days after notice of

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Sect. 34. Note.

This section is amended as to county council elections by the County Councils (Elections) Act, 1891 (54 & 55 Vict. c. 68), s. 5.

By three General Orders of the Local Government Board dated respectively January 1st, 1898; January 1st, 1898; and January 21st, 1898, regulating respectively the election of guardians (outside London), of rural district councillors, and of guardians (London), this section is adapted to such elections in the manner following:—

**34.**—(1) Every qualified person elected or deemed to be re-elected to the office of guardians [rural district councillor], unless exempt under this section or otherwise by law, either shall accept the office by making and subscribing the declaration required by this Act within one month after notice of being elected or deemed to be re-elected, or shall, in lieu thereof, be liable to pay to the board of guardians [district council] a fine of such amount, not exceeding fifty pounds, as the guardians [district council] by regulations determine, and such fine shall be placed to the credit of the parish for which the person was elected.

(2) If there are no regulations determining fines, the fine shall be twenty pounds.

(3) The persons exempt under this section are—

Any person disabled by lunacy or imbecility of mind, or by deafness, blindness, or other permanent infirmity of body,

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election, or shall, in lieu thereof, be liable to pay to the council a fine of such amount not exceeding, in case of an alderman, councillor, elective auditor, [*or revising assessor*], fifty pounds, and in case of a mayor one hundred pounds, as the council by byelaw determine.

(2) If there is no byelaw determining fines, the fine, in case of an alderman, councillor, elective auditor, [*or revising assessor*], shall be twenty-five pounds, and in case of a mayor fifty pounds.

(3) The persons exempt under this section are—

(*a.*) Any person disabled by lunacy or imbecility of mind, or by deafness, blindness, or other permanent infirmity of body; and

(*b.*) Any person who, being above the age of sixty-five years, or having within five years before the day of his election either served the office or paid the fine for non-acceptance thereof, claims exemption within five days after notice of his election.

(4) A fine payable under this section shall be recoverable summarily.

Declaration on acceptance of office.

XXXV. A person elected to a corporate office shall not, until he has made and subscribed before two members of the council,

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Sect. 34.

Note.

and any person who, having within five years before the day of election served the office of guardian [rural district councillor] for the parish or other area, claims exemption within ten days after notice of election or of being declared to be deemed to be re-elected.

(4) A fine payable under this section shall be recoverable summarily.

(5) If a person is either elected or deemed to be re-elected guardian [rural district councillor] in more than one parish or other area in the poor law union [rural district] for which the election is held, he shall not accept office in respect of more than one of such areas, and if he accepts office or pays the fine for non-acceptance of office in respect of one of such areas, he shall not be liable to a fine of non-acceptance of office in respect of any other of such areas.

(6) Any person who has been nominated and elected without his consent to his nomination being previously obtained shall not be liable to a fine under this section.

If an unqualified person is elected, he is not liable to a penalty for non-acceptance of office (*Reg.* v. *Richmond*, 26 J. P. 771; 11 W. R. 65).

For the persons who are exempt by law from serving parochial offices, see Archbold's Poor Law, 15th ed., p. 137.

By the General Orders above-mentioned, notice of being elected or being deemed to be re-elected is to be sent by the returning officer to the persons elected or deemed to be re-elected as guardians or rural district councillors.

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Sect. 35.

Note.

This section is amended as to county council elections by the County Councils (Elections) Act, 1891 (54 & 55 Vict. c. 68), s. 5.

By the General Orders mentioned in the note to sect. 34, *supra*,

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or the town clerk, a declaration as in the eighth schedule, act in the office, except in administering that declaration.

Fine on resignation, &c.

XXXVI.—(1) A person elected to a corporate office may at any time by writing signed by him and delivered to the town clerk, resign the office, on payment of a fine provided for non-acceptance thereof.

(2) In any such case the council shall forthwith declare the office to be vacant, and signify the same by notice in writing, signed by three members of the council and countersigned by the town clerk, and fixed on the town hall, and the office shall thereupon become vacant.

(3) No person enabled by law to make an affirmation instead of taking an oath shall be liable to any fine for non-acceptance

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Sect. 35. Note.

this section is adapted to the election of guardians and rural district councillors as follows:—

**35.** A person elected or deemed to be re-elected to the office of guardian [rural district councillor] shall not, until he has made and subscribed before two guardians of the poor law union [members of the district council], or the clerk to the guardians of the union [district council], or, if he is absent from the United Kingdom, before a British Consul, a declaration in the following form, or in a form to the like effect, act in the office except in administering that declaration:

*Form of Declaration on Acceptance of Office.*

I, *A. B.*, having been elected [*or* being deemed to be re-elected] guardian [rural district councillor] for the Poor Law Union [Rural District] of in respect of the Parish of [*or* of the United Parishes of and , *or* of the Ward of the Parish of ], hereby declare that I take the said office upon myself, and will duly and faithfully fulfil the duties thereof according to the best of my judgment and ability.

Dated this day of , 18 .

This declaration was made and subscribed before us*

Guardians of the above-named Union.

[Members of the District Council of the above-named District.]

* If the declaration is made and subscribed before the Clerk or a Consul, adapt form accordingly.

As to the power of members of the council to administer oaths of office, &c., see sect. 239, *infra*.

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Sect. 36. Note.

The provisions in this Act as to resignation of councillors do not apply to guardians or to rural district councillors (Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 48 (4) (*a*)). The Local Government Board may accept the resignation of any person elected as a guardian tendered for any cause which the board may deem reasonable (Poor Law Amendment Act, 1842 (5 & 6 Vict. c. 57), s. 11); and rural district councillors are in the same position with respect to resignation as guardians (Local Government Act, 1894, s. 48 (4) (*a*), *supra*).

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of office by reason of his refusal on conscientious grounds to take any oath or make any declaration required by this Act or to take on himself the duties of the office.

Re-eligibility of office holders.

XXXVII. A person ceasing to hold a corporate office shall, unless disqualified to hold the office, be re-eligible.

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Avoidance of office by bankruptcy or absence.

XXXIX.—(1) If the mayor, or an alderman or councillor—

(*a.*) Is declared bankrupt, or compounds by deed with his creditors, or makes an arrangement or composition with his creditors, under the Bankruptcy Act, 1869, by deed or otherwise; or

(*b.*) Is (except in case of illness) continuously absent from the borough, being mayor, for more than two months, or, being alderman or councillor, for more than six months:

he shall thereupon immediately become disqualified and shall cease to hold the office.

(2) In any such event the council shall forthwith declare the office to be vacant, and signify the same by notice signed by three members of the council, and countersigned by the town clerk, and fixed on the town hall, and the office shall thereupon become vacant.

(3) Where a person becomes so disqualified by being declared bankrupt, or compounding, or making an arrangement or composition, as aforesaid, the disqualification, as regards subsequent elections, shall, in case of bankruptcy, cease on his obtaining his order of discharge, and shall, in case of a compounding or composition as aforesaid, cease on payment of his debts in full,

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Sect. 37.

Note.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 48 (4), this section with respect to the re-eligibility of holders of office is applied to the case of guardians and rural district councillors.

By the General Orders mentioned in the note to sect. 34, *supra*, this section is adapted to the election of guardians and rural district councillors by the respective substitutions of "office of guardian" and "office of rural district councillor" for the words "corporate office."

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Sect. 39.

Note.

The avoidance of office of guardian or rural district councillor by reason of bankruptcy or absence is provided for by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 46 (1) (*c*), and s. 46 (6).

By the Members of Local Authorities Relief Act, 1900 (63 & 64 Vict. c. 46), s. 2, an officer or soldier of the auxiliary forces or of the reserve forces on active service or on service beyond the seas shall not by reason only of his absence on that service be disqualified or vacate his office as a member of a borough council, or incur any fine or other liability.

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and shall, in case of an arrangement as aforesaid, cease on his obtaining his certificate of discharge.

(4) Where a person becomes so disqualified by absence, he shall be liable to the same fine as for non-acceptance of office, recoverable summarily, but the disqualification shall, as regards subsequent elections, cease on his return.

Filling of casual vacancies.

XL.—(1) On a casual vacancy in a corporate office, an election shall be held by the same persons and in the same manner as an election to fill an ordinary vacancy; and the person elected shall hold the office until the time when the person in whose place he is elected would regularly have gone out of office, and he shall then go out of office.

(2) In case of more than one casual vacancy in the office of

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Sect. 40.

Note.

By the General Orders mentioned in the note to sect. 34, *supra*, this section is adapted to the election of guardians and rural district councillors as follows:—

**40.**—(1) On a casual vacancy in the office of guardian [rural district councillor], an election shall be held in accordance with the Guardians Election Orders, 1898 [Rural District Councillors Election Order, 1898]; and the person elected shall hold the office until the time when the person in whose place he is elected would regularly have gone out of office, and he shall then go out of office.

(2) In case of more than one casual vacancy in the office of guardian [rural district councillor], being filled at the same election, *not being the ordinary election*,* the guardian [councillor] elected by the smallest number of votes shall be deemed to be elected in the place of him who would regularly have first gone out of office, and the guardian [councillor] elected by the next smallest number of votes shall be deemed to be elected in the place of him who would regularly have next gone out of office, and so with respect to the others; and if there has not been a contested election, or if any doubt arises, the order of rotation shall be determined by the board of guardians [district council].

(3) Non-acceptance of office by a person elected or deemed to be re-elected creates a casual vacancy.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 48 (4) (*b*), an election need not be held to fill a casual vacancy in a board of guardians or a rural district council which occurs within six months before the ordinary day of retirement from the office in which the vacancy occurs, but the vacancy shall be filled at the next ordinary election.

A casual vacancy may occur in a board of guardians or rural district council by the happening of any of the events after election mentioned in sect. 46 (1) of the Local Government Act, 1894 (56 & 57 Vict. c. 73), or for any other reason whereby a member of the board or council becomes legally disqualified for being a member, or by resignation or death of a member.

A *mandamus* will lie to fill up a casual vacancy (*Reg.* v. *Stratford-on-Avon*, 2 T. L. R. 431).

* The words in italics are omitted in the Guardians (London) Election Order, 1898.

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councillor being filled at the same election, the councillor elected by the smallest number of votes shall be deemed to be elected in the place of him who would regularly have first gone out of office, and the councillor elected by the next smallest number of votes shall be deemed to be elected in the place of him who would regularly have next gone out of office, and so with respect to the others; and if there has not been a contested election, or if any doubt arises, the order of rotation shall be determined by the council.

(3) Non-acceptance of office by a person elected creates a casual vacancy.

Penalty on unqualified person acting in office.

XLI.—(1) If any person acts in a corporate office without having made the declaration by this Act required, or without being qualified at the time of making the declaration, or after ceasing to be qualified, or after becoming disqualified, he shall for each offence be liable to a fine not exceeding fifty pounds, recoverable by action.

(2) A person being in fact enrolled in the burgess roll shall not be liable to a fine for acting in a corporate office on the ground only that he was not entitled to be enrolled therein.

[Sect. 42. Validity of acts done notwithstanding disqualification, &c.]

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Sect. 41. Note.

By the General Orders mentioned in the rule to sect. 34, *supra*, this section in adapted to the case of guardians and rural district councillors as follows:—

**41.** If any person acts in the office of guardian [rural district councillor] without having made the declaration by this Act required, he shall for each offence be liable to a fine not exceeding twenty pounds, recoverable by action.

The form of declaration prescribed by the General Orders for guardians and rural district councillors is set out in the note to sect. 35, *ante*.

By sect. 224, *infra*, an action for a fine can only be brought against a borough councillor by a burgess. There is no corresponding provision as to the persons entitled to bring such action against a guardian or rural district councillor, and it is very doubtful whether sect. 224 of this Act has any application to such actions. If no person is authorized to sue for the fine, the action can only be brought by the Crown (*Clarke* v. *Bradlaugh*, 8 App. Cas. 354).

Provision is made against a guardian or rural district councillor acting when disqualified under a penalty of 20*l.* by sect. 48 (8) of the Local Government Act, 1894 (56 & 57 Vict. c. 73).

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Sect. 42. Note.

The validity of acts done by a board of guardians, notwithstanding the want of qualification of its members, is provided for by the Poor Law Amendment Act, 1842 (5 & 6 Vict. c. 57), s. 13, and by rule 9 of the first schedule of the Public Health Act, 1875 (38 & 39 Vict. c. 55), which schedule is applied to boards of guardians and rural district councils by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 59 (1).

## PART III.

### PREPARATIONS FOR THE PROCEDURE AT ELECTIONS.

*Parish Burgess Lists; Burgess Rolls; Ward Rolls.*

Preparation and revision of parish burgess lists.

XLIV.—(1) Where the whole or part of the area of a borough is co-extensive with or included in the area of a Parliamentary borough, the lists of burgesses are to be made out and revised, and claims and objections relating thereto are to be made, in accordance with the provisions of the Parliamentary and Municipal Registration Act, 1878.

41 & 42 Vict. c. 26.

(2) *Where no part of the area of a borough is co-extensive with or included in the area of a Parliamentary borough, the lists of burgesses shall be made out and revised, and claims and objections relating thereto may be made, in accordance, as nearly as may be, with the provisions of Part I. of the third schedule.*

(3) In either case the lists shall be styled the parish burgess lists.

The burgess roll and ward rolls.

XLV.—(1) Where the parish burgess lists have been revised and signed, the revising authority shall deliver them to the town clerk, and a printed copy thereof, examined by him and signed by him, shall be the burgess roll of the borough.

(2) The burgess roll shall be completed on or before the twentieth of October in each year, and shall come into operation on the first of November in that year, and shall continue in operation for the twelve months beginning on that day.

(3) The names in the burgess roll shall be numbered by wards or by polling districts, unless in any case the council

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**Sect. 44. Note.**

Sub-sect. (2) of this section is in effect repealed by the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4, which provides that in all boroughs the lists of burgesses shall be revised by a revising barrister in the manner provided by the Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), and that revising assessors shall no longer be elected.

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**Sect. 45. Note.**

By the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 7, this section and sects. 48, 71, of this Act, are made applicable to the county register with the substitution of "clerk of the peace" for "town clerk," and of "county register" and "division register" for "burgess roll" and "ward roll" respectively, and of "electoral division" for "ward," and of "county fund" for borough fund"; provided that nothing in that section shall prevent a county elector from being registered in more than one division register. Consequently sub-sect. (6) of this section is not applicable to the county register.

See also the County Councils (Elections) Act, 1891 (54 & 55 Vict. c. 68), s. 2, for an alteration of the effect of sub-sects. (1) and (2) of this section.

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direct that the same be numbered consecutively without reference to wards or polling districts.

(4) Where the borough has no wards, the burgess roll shall be made in one general roll for the whole borough.

(5) Where the borough has wards, the burgess roll shall be made in separate rolls, called ward rolls, one for each ward, containing the names of the persons entitled to vote in that ward, and the ward rolls collectively shall constitute the burgess roll.

(6) A burgess shall not be enrolled in more than one ward roll.

(7) Where a duplicate of a burgess list is made under section thirty-one of the Parliamentary and Municipal Registration Act, 1878, it shall have the same effect as the original, and may be delivered instead thereof.

(8) Every person enrolled in the burgess roll shall be deemed to be enrolled as a burgess, and every person not enrolled in the burgess roll shall be deemed to be not enrolled as a burgess.

(9) No stamp duty shall be payable in respect of the enrolment of a burgess.

Arrangement of lists and rolls.

XLVI.—(1) If and as far as the council so direct, the parish burgess lists, and the burgess roll, and the ward rolls (if any), and the lists of claimants and respondents, or any of those documents, shall be arranged in the same order in which the qualifying properties appear in the rate-book for the parish in which they are situate, or otherwise in such order as will cause those lists and rolls to record the qualifying properties in successive order in the street or other place in which they are situate.

(2) Subject to any such direction, and to the provisions of this Act as to polling districts, the arrangement of the lists and rolls shall be alphabetical.

Correction of burgess roll.

XLVII.—(1) Where the parish burgess lists are revised under the Parliamentary and Municipal Registration Acts,

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Sect. 46. Note.

As to the operation of this section where a municipal borough or an urban district is co-extensive with any electoral division or divisions of a Parliamentary county, see now the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4 (3), as amended by the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 76.

It appears from the third schedule to this Act that the expression "respondents" referred to in sub-sect. (1) means the persons objected to.

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Sect. 47. Note.

As the burgess lists are now in every case revised under the Parliamentary and Municipal Registration Act, 1878 (see note to sect. 44, *supra*), sub-sects. (2), (3) of this section are obsolete.

1878, the burgess roll is subject to alteration or correction in manner provided by section thirty-five of that Act. Sect. 47.

[Sub-sects. (2) and (3). As to *mandamus* to mayor to restore names expunged or omitted on a revision under this Act.]

Printing and sale of burgess roll and other documents.

XLVIII.—(1) The town clerk shall cause the parish burgess lists, the lists of claimants and respondents, and the burgess roll, to be printed, and shall deliver printed copies to any person on payment of a reasonable price for each copy.

(2) Subject to section thirty of the Parliamentary and Municipal Registration Act, 1878, the proceeds of sale shall go to the borough fund.

Separate list of persons qualified to be councillors but not to be burgesses.

XLIX.—(1) The overseers of each parish shall at the same time that they make the parish burgess list make a list of the persons entitled in respect of the occupation of property in that parish to be elected councillors, as being resident within fifteen miles although beyond seven miles from the borough.

(2) The provisions of this Act as to the parish burgess lists, and claims and objections relating thereto, and the revision of those lists shall, as nearly as circumstances admit, apply to the lists made under this section.

(3) The town clerk shall arrange the names entered in these lists, when revised, in alphabetical order as a separate list (in this Act called the separate non-resident list), with an appropriate heading, at the end of the burgess roll.

*Election of Councillors.*

[Sect. 50. Borough and ward elections.]

[Sect. 51. Title to vote.]

[Sect. 52. Day of election.]

[Sect. 53. Returning officer at election.]

[Sect. 54. Notice of election.]

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See note to sect. 45, *supra*. Sect. 48.

Note.

For the qualification of councillors, see sect. 11, *supra*. Sect. 49.

Note.

This section is applied to counties with reference to the qualifications of county councillors by the County Electors Act (51 & 52 Vict. c. 10), s. 12, with the substitution of "county" for "borough," of "county elector" for "burgess," and of "clerk of the peace" for "town clerk." By the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 77, however, in the county of London there is no need for a separate non-resident list, as by that section any person who would be entitled to be put on that list is entitled to be registered as a county elector.

Sect. 55.
Nomination of candidates.

LV. The nomination of candidates for the office of councillor shall be conducted in accordance with the rules in Part II. of the third schedule.

Relation of nomination to election.

LVI.—(1) If the number of valid nominations exceeds that of the vacancies, the councillors shall be elected from among the persons nominated.

(2) If the number of valid nominations is the same as that of the vacancies, the persons nominated shall be deemed to be elected.

(3) If the number of valid nominations is less than that of the vacancies, the persons nominated shall be deemed to be

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Sect. 56.
Note.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 4 (4), this section is, subject to the adaptations, alterations, and exceptions made by the rules framed by the Local Government Board, made applicable to the election of guardians and rural district councillors. By the General Orders mentioned in the note to sect. 34, *ante*, the section is adapted as follows:—

*Relation of Nomination to Election.**

Section 56 of the Municipal Corporations Act, 1882, shall be altered and adapted in its application to the election of guardians [rural district councillors] in the parish so as to provide as follows:—

(1) If the number of candidates who receive valid nominations and who do not withdraw their candidature under rule 9 exceeds that of the persons to be elected as guardians [rural district councillors], the guardians [councillors] shall be elected from amongst the persons nominated.

(2) If the number of valid nominations does not exceed the number of guardians [councillors] to be elected, or if by the withdrawal of any candidates as provided by rule 9, the number of candidates for the parish is reduced to a number not exceeding the number to be elected, or if the number of candidates is otherwise so reduced, the returning officer shall, as early as practicable, give public notice in the parish in accordance with rule 29 of this order to the effect that no poll will be taken, and that the candidates, or the remaining candidates, as the case may be, will be declared to be elected; and also, in the case of the ordinary election, if the number of such candidates is less than the number of guardians [rural district councillors] to be elected, that such of the retiring guardians [councillors] for the parish as were highest on the poll at their election, or, if the poll was equal or there was no poll, as shall have been selected for that purpose by the returning officer by lot to make up the required number, will be declared to be deemed to be re-elected.

(3) If there is no valid nomination, the returning officer shall,

* This rule is taken from the Guardians Election (London) Order, 1898. The other rules and the forms referred to therein, are differently numbered in the other two General Election Orders, 1898, mentioned in the note to sect. 34, *ante*.

elected, and such of the retiring councillors for the borough or ward as were highest on the poll at their election, or, if the poll was equal, or there was no poll, as are selected for that purpose by the mayor, shall be deemed to be re-elected to make up the required number. Sect. 56.

(4) If there is no valid nomination, the retiring councillors shall be deemed to be re-elected.

[Sect. 57. Publication of uncontested election.]

[Sect. 58. Mode of conducting poll at contested election.]

[Sect. 59. Questions which may be put to voters.]

[Sect. 60. Election of aldermen.]

[Sect. 61. Election of mayor.]

[Sect. 62. Election of auditors and assessors.]

*Supplemental and Exceptional Provisions.*

LXIII. For all purposes connected with and having reference to the right to vote at municipal elections words in this Act importing the masculine gender include women. Right of women to vote.

LXIV. The council may divide the borough or any ward into polling districts, and thereupon the overseers shall, as far as Polling districts.

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as early as practicable, give public notice in the parish in accordance with rule 29 of this order that no poll will be taken, and, in the case of the ordinary election, that the retiring guardians [councillors] will be declared to be deemed to be re-elected. Sect. 56. Note.

(4) The returning officer shall forthwith send, by post or otherwise, a copy of any notice under this rule to each of the persons who will be declared to be elected or to be deemed to be re-elected.

(5) The notice shall be in the form No. 4 or the form No. 5, as the case may be, in the second Schedule to this order, or in a form to the like effect.

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This section is applied to county electors by the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 2. Sect. 63. Note.

A married woman cannot vote for the election of a councillor, although qualified by occupation and payment of rates, and put on the burgess roll (*Reg.* v. *Harrald*, L. R. 7 Q. B. 361; 41 L. J. Q. B. 173; 26 L. T. (N. S.) 616; 20 W. R. 328; 36 J. P. 438). And a woman cannot be elected a councillor (*Hope* v. *Lady Sandhurst*, 20 Q. B. D. 79; 58 L. J. Q. B. 316; 61 L. T. 150; 37 W. R. 548; 53 J. P. 805).

Sect. 64.

practicable, make out the parish burgess lists so as to divide the names in conformity with the polling districts.

[Sect. 65. Notices as to elections.]

Time for filling casual vacancies.

LXVI.—(1) On a casual vacancy in a corporate office, the election shall be held within fourteen days after notice in writing of the vacancy has been given to the mayor or town clerk by two burgesses.

(2) Where the office vacant is that of mayor, the notice of the meeting for the election shall be signed by the town clerk.

(3) In other cases the day of election shall be fixed by the mayor.

[Sect. 67. Illness, &c., of mayor or returning officer.]

Election of councillor in more than one ward.

LXVIII. If a person is elected councillor in more than one ward, he shall, within three days after notice thereof, choose,

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Sect. 66.

Note.

The sections of this Act with respect to the filling of casual vacancies is applied to the election of guardians and rural district councillors by sect. 48 (4) of the Local Government Act, 1894 (56 & 57 Vict. c. 73).

By the General Orders mentioned in the note to sect. 34, *ante*, this section has been adapted to the case of guardians and rural district councillors as follows:—

**66.**—(1) On a casual vacancy in the office of guardian [rural district councillor], the election shall be held within one month after notice in writing of the vacancy has been given to the chairman of the board of guardians [district council] or to the clerk by two guardians [councillors].

(3) The day of election shall be fixed by the clerk to the guardians [district council].

(4) Nothing in this Act shall authorize or require a returning officer to hold an election to fill a casual vacancy which occurs within six months before the ordinary day of retirement from the office in which the vacancy occurs, and the vacancy shall be filled at the next ordinary election.

A *mandamus* lies to hold an election for the purpose of filling a casual vacancy (*Reg.* v. *Stratford-on-Avon*, 2 T. L. R. 431; and see sect. 70, *post*.

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Sect. 68.

Note.

This section is not adapted by the General Orders mentioned in the note to sect. 34, *ante*, to the case of guardians and rural district councillors, although it might be considered as one of the provisions of the Act with respect to the "acceptance of office" which is applied by sect. 48 (4) of the Local Government Act, 1894 (56 & 57 Vict. c. 73) to the election of guardians, &c. Probably, however, if the same person were elected guardian or councillor for more than one parish in a union, the case could be dealt with under

by writing signed by him and delivered to the town clerk, or in his default the mayor shall, within three days after the time for choice has expired, declare, for which of those wards he shall serve, and the choice or declaration shall be conclusive. Sect. 68.

[Sect. 69. Elections not in churches.]

LXX.—(1) If a municipal election is not held on the appointed day or within the appointed time, it may be held on the day next after that day or the expiration of that time. Omission to hold election, or election void.

(2) If a municipal election is not held on the appointed day or within the appointed time, or on the day next after that day or the expiration of that time, or becomes void, the municipal corporation shall not thereby be dissolved or be disabled from electing, but the High Court may, on motion, grant a *mandamus* for the election to be held on a day appointed by the court.

(3) Thereupon public notice of the election shall, by such person as the court directs, be fixed on the town hall, and shall be kept so fixed for at least six days before the day appointed for the election; and in all other respects the election shall be conducted as directed by this Act respecting ordinary elections.

LXXI.—(1) If a parish burgess list is not made or revised in due time, the corresponding part of the burgess roll in operation before the time appointed for the revision shall be the parish burgess list until a burgess list for the parish has been revised and become part of the burgess roll. Burgess roll to be in operation until revision of new burgess roll.

(2) If a burgess roll is not made in due time, the burgess roll in force before the time appointed for the revision shall continue in force until the new burgess roll is made.

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sect. 48 (5) of the Local Government Act, 1894, and a new election ordered to be held by the county council for the parish or parishes which the guardian or councillor elects not to represent. Sect. 68. Note.

This section is not adapted by the General Orders mentioned in the note to sect. 34, *ante*, to the election of guardians and rural district councillors; and there is a provision in the Poor Law Amendment Act, 1842 (5 & 6 Vict. c. 57), s. 10, that if no person is elected for the office of guardian in any parish at any annual election of guardians, the persons elected for the previous year may continue to act as guardians until the next annual election. If, however, the guardian elected for the previous year was dead or had resigned, &c., there seems no reason why a *mandamus* should not issue to hold an election. Sect. 70. Note.

For what is "due time" for revision of burgess lists, see County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 6 (1); and for making the burgess roll, see sect. 45, *supra*. Sect. 71. Note.

This section is applied to the county register and the county electors' lists by the County Electors Act, 1888, s. 7, with the necessary modifications.

Sect. 72. [Sect. 72. Non-compliance with rules.]

[Sect. 73. Election valid unless questioned within twelve months.]

Offences in relation to nomination papers.

LXXIV.—(1) If any person forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to the town clerk any forged nomination paper, knowing it to be forged, he shall be guilty of a misdemeanour, and shall be liable to imprisonment for any term not exceeding six months, with or without hard labour.

(2) An attempt to commit any such offence shall be punishable as the offence is punishable.

Offences in relation to lists and elections.

LXXV.—(1) *If a mayor or revising assessor neglects or refuses to revise a parish burgess list*, or a mayor or alderman neglects

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Sect. 74.

Note.

This section is, pursuant to the provisions of sect. 48 (3) of the Local Government Act, 1894 (56 & 57 Vict. c. 73), adapted to the elections of guardians and rural district councillors by the General Orders mentioned in the note to sect. 34, *ante*, with the single substitution of the words "returning officer" for "town clerk."

As to the necessity of proving a *mens rea* to constitute an offence under an enactment such as is contained in this section, see *Aberdare Local Board* v. *Hammett*, L. R. 10 Q. B. 162; 44 L. J. M. C. 49; 32 L. T. (N. S.) 20; 39 J. P. 69; *Gough* v. *Murdoch*, 57 L. T. 308; 35 W. R. 836; 51 J. P. 471; *Bell* v. *Morsar*, 40 L. T. 128; 43 J. P. 174.

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Sect. 75.

Note.

The words in italics are in effect repealed by the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4.

This section is, pursuant to the provisions of sect. 48 (3) of the Local Government Act, 1894 (56 & 57 Vict. c. 73), adapted to the election of guardians and rural district councillors by the General Orders mentioned in the note to sect. 34, *ante*, in the following terms:—

*Neglect of Duty by Returning Officer or Deputy Returning Officer.*

**75.**—(1) If a person who has undertaken to act as returning officer, or deputy returning officer, at an election of guardians [rural district councillors], neglects or refuses to conduct or declare the election in manner provided by the Local Government Act, 1894, and the Guardians [Rural District Councillors] Election Order, 1898, he shall for every such offence be liable to a fine not exceeding one hundred pounds, recoverable by action.

(2) An action under this section shall not lie after three months from the neglect or refusal.

A mere omission to comply with the provisions of this section, although not wilful, is an offence (*King* v. *Burrell*, 12 A. & E. 460; *King* v. *Shore*, 3 Q. B. 31; *Hunt* v. *Hibbs*, 5 H. & M. 123; 29 L. J. Ex. 222; 6 Jur. (N. S.) 78). It was held that notice of action under this section was not necessary (*King* v. *Burrell*, *supra*); and as the action is for a fine and not for damages the provisions of the Public Authorities Protection Act, 1893 (56 & 57 Vict. c. 61), as to giving an opportunity of tendering amends, have no application.

or refuses to conduct or declare an election, as required by this Act, he shall for every such offence be liable to a fine not exceeding one hundred pounds, recoverable by action.

(2) If—

(*a.*) An overseer neglects or refuses to make, sign, or deliver a parish burgess list, as required by this Act ; or

(*b.*) A town clerk neglects or refuses to receive, print, and publish a parish burgess list or list of claimants or respondents, as required by this Act ; or

(*c.*) An overseer or town clerk refuses to allow any such list to be inspected by a person having a right thereto ;

he shall for every such neglect or refusal be liable to a fine not exceeding fifty pounds, recoverable by action.

(3) An action under this section shall not lie after three months from the neglect or refusal. A moiety of any fine recovered therein shall, after payment of the costs of action, be paid to the plaintiff.

[Sect. 76. Revival of former law on expiration of Ballot Act.]

## PART IV.

### CORRUPT PRACTICES AND ELECTION PETITIONS.

[By sect. 48 (3) of the Local Government Act, 1894, Part IV. of this Act as amended by the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, including the penal provisions of these Acts is, subject to adaptations, alterations and exceptions made by the rules prescribed by the Local Government Board, to apply to elections of guardians and rural district councillors. The rules of the Local Government Board are contained in the General Orders mentioned in the note to sect. 34, *ante*, and provide as follows :—

In the application of Part IV. of the Municipal Corporations Act, 1882 (relating to corrupt practices and election petitions), as amended by the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, the following adaptations and alterations shall have effect :

(*a.*) Such application shall be subject to the provisions of this order.

(*b.*) References to the election of guardians [rural district councillors] shall be substituted for references to a municipal election or to an election to a corporate office. "Parish or united parishes" and in sect. 93 (2) "poor law union" shall be substituted for "borough," "poor rate of the parish or poor rates of the united parishes" shall be substituted for "borough fund or borough rate," "returning officer" shall be substituted for "town clerk," and "voter" shall mean "a parochial elector or a person who votes or claims to vote at an election of guardians" [rural district councillors].

(*c.*) In the application of sub-section (2) of section 89, such sub-section shall be adapted and altered so as to read as follows :

"(2) The security shall be to the amount of fifty pounds,

unless in any case the High Court or a judge thereof, on summons, order that the same shall be to a lesser amount, or to a larger amount not exceeding three hundred pounds, and shall be given in the prescribed manner either by a deposit of money or by recognizance entered into by not more than four sureties, or partly in one way and partly in the other."]

*Corrupt Practices.*

Sect. 77. Definitions.

LXXVII. In this part—

"Bribery," "treating," "undue influence," and "personation," include respectively anything done before, at, after, or with respect to a municipal election, which if done before, at, after, or with respect to a Parliamentary election would make the person doing the same liable to any penalty, punishment, or disqualification for bribery, treating, undue influence, or personation, as the case may be, under any Act for the time being in force with respect to Parliamentary elections :

[These expressions are defined in schedule III., part 1, to the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70).]

* * * * *

"Candidate" means a person elected, or having been nominated, or having declared himself a candidate for election, to a corporate office :

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"Voter" means a burgess or a person who votes or claims to vote at a municipal election :

"Election court" means a court constituted under this part for the trial of an election petition :

"Municipal election petition" or "election petition" means a petition under this part complaining of an undue municipal election :

"Parliamentary election petition" means a petition under the Parliamentary Elections Act, 1868 :

"Prescribed" means prescribed by general rules made under this part :

"Borough" and "election" when used with reference to a petition mean the borough and election to which the petition relates.

[The definition of "corrupt practice" and "canvasser," are repealed by the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70). And the expression "corrupt practice" is defined by sect. 2 of that Act.]

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[Sects. 78, 79 and 80. Repealed by the Municipal Election (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70).]

LXXXI. A municipal election shall be wholly avoided by such general corruption, bribery, treating, or intimidation at the election as would by the common law of Parliament avoid a Parliamentary election. Sect. 81. Avoidance of election for general corruption.

[Sects. 82, 83 and 84, dealing with corrupt practices at elections. Repealed by the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70).]

LXXXV. The votes of persons in respect of whom any corrupt practice is proved to have been committed at a municipal election shall be struck off on a scrutiny. Striking off votes.

LXXXVI. The enactments for the time being in force for the detection of personation and for the apprehension of persons charged with personation at a Parliamentary election shall apply in the case of a municipal election. Personation.

*Election Petitions.*

LXXXVII.—(1) A municipal election may be questioned by an election petition on the ground— Power to question municipal election by petition.

(*a.*) That the election was as to the borough or ward wholly

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See note to heading of Part IV. of this Act, *supra*. As to the extent of corruption, &c., necessary to avoid a Parliamentary election, see *Stalybridge Election Case*, 1 O'M. & H. 72; *Galway Election Case*, 2 O'M. & H. 200; *Ipswich Election Case*, 4 O'M. & H. 70. Sect. 81. Note.

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This section is in effect superseded by sect. 22 of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70), which is of wider application than this section. Sect. 85. Note.

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These enactments are contained in the Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), ss. 85—89, which are incorporated with the Ballot Act, 1872 (35 & 36 Vict. c. 33), s. 24. Sect. 86. Note.

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For the application of this section to the election of guardians, see note to heading of Part IV. of this Act, *supra*. Sect. 87. Note.

The offences mentioned in this section are defined by the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70), sched. III.; and by sect. 25 of that Act an election may be questioned on the ground of illegal practices.

Whenever an election may be questioned by election petition *quo warranto* will not lie (*Reg.* v. *Morton*, [1892] 1 Q. B. 39; 61 L. J. Q. B. 39; 65 L. T. 611; 40 W. R. 109; 56 J. P. 105). The disqualification mentioned in sub-sect. (*c*) means a disqualification existing at the time of the election; if it arise after election the proper proceeding is not by election petition but by *quo warranto* (*Howes* v. *Turner*, 1 C. P. D. 670; 45 L. J. C. P. 550; 35 L. T. (N. S.) 58). A returning officer has no jurisdiction to determine a question of alleged disqualification of a candidate; that can only be done by

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avoided by general bribery, treating, undue influence, or personation; or

(*b.*) That the election was avoided by corrupt practices or offences against this part committed at the election; or

(*c.*) That the person whose election is questioned was at the time of the election disqualified; or

(*d.*) That he was not duly elected by a majority of lawful votes.

(2) A municipal election shall not be questioned on any of those grounds except by an election petition.

Presentation of petition.

LXXXVIII.—(1) An election petition may be presented either by four or more persons who voted or had a right to vote at the election or by a person alleging himself to have been a candidate at the election.

(2) Any person whose election is questioned by the petition,

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Sect. 87. Note.

election petition (*Pritchard* v. *Bangor, Mayor, &c. of*, 13 App. Cas. 241; 57 L. J. Q. B. 313; 58 L. T. 502; 37 W. R. 158; 52 J. P. 564).

An election petition lies where objection is taken to the rejection or admission of a nomination paper by the returning officer (*Monks* v. *Jackson*, 1 C. P. D. 683; 46 L. J. C. P. 162; 35 L. T. (N. S.) 95), even though the nomination paper is not that of the successful candidate (*Budge* v. *Andrews*, 3 C. P. D. 510; 47 L. J. Q. B. 586; 39 L. T. (N. S.) 166).

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Sect. 88.

For the application of this section to an election of guardians, see note to the heading of Part IV. of this Act, *supra*.

Note. Sub-s. (2).

An election petition may be presented against some only of the persons returned, although the ground of the petition is one affecting the validity of the election as a whole; and the court can on such petition declare the person so petitioned against not to have been duly elected; but the court cannot on such petition declare void the election of any person other than those against whose election the petition was presented (*Line* v. *Warren*, 14 Q. B. D. 548; 54 L. J. Q. B. 291; 51 L. T. 359; 49 J. P. 516).

An unsuccessful candidate cannot be made a respondent to an election petition on any ground (*Lovering* v. *Dawson*, L. R. 10 C. P. 726; 44 L. J. C. P. 321; 32 L. T. (N. S.) 819), although where the candidate who obtained the largest number of votes was disqualified and refused to serve, and the candidate who obtained the next largest number claimed to be elected, and made the necessary declaration and acted as though elected, it was held that both candidates were properly made respondents to a petition (*Yates* v. *Leach*, L. R. 9 C. P. 605; 43 L. J. C. P. 377; 30 L. T. (N. S.) 790).

The words "complain of the conduct" of a returning officer in sub-sect. (2) mean that there must be an imputation of misconduct on his part, which probably must be one of the offences enumerated in sect. 11 of the Ballot Act, 1872 (35 & 36 Vict. c. 33). A returning officer who has given a *bonâ fide* though erroneous decision on the validity of an objection to a nomination paper cannot properly

and any returning officer of whose conduct a petition complains, may be made a respondent to the petition. Sect. 88.

(3) The petition shall be in the prescribed form and shall be signed by the petitioner, and shall be presented in the prescribed manner to the High Court in the Queen's Bench Division, and the prescribed officer shall send a copy thereof to the town clerk, who shall forthwith publish it in the borough.

(4) It shall be presented within twenty-one days after the day on which the election was held, except that if it complains of the election on the ground of corrupt practices, and specifically alleges that a payment of money or other reward has been made or promised since the election by a person elected at the election, or on his account or with his privity, in pursuance or furtherance of such corrupt practices, it may be presented at any time within twenty-eight days after the date of the alleged payment or promise, whether or not any other petition against that person has been previously presented or tried.

LXXXIX.—(1) At the time of presenting an election petition or within three days afterwards, the petitioner shall give security for all costs, charges, and expenses which may become payable by him to any witness summoned on his behalf, or to any respondent. Security for costs.

(2) The security shall be to such amount, not exceeding five hundred pounds, as the High Court, or a judge thereof, on summons, directs, and shall be given in the prescribed manner, either by a deposit of money, or by recognizance entered into by not more than four sureties, or partly in one way and partly in the other.

(3) Within five days after the presentation of the petition

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be made a respondent to an election petition (*Harmon* v. *Park*, 6 Q. B. D. 323; 50 L. J. Q. B. 227; 44 L. T. (N. S.) 81; 29 W. R. 750; 45 J. P. 436). Sect. 88. Note.

"Prescribed" in sub-sect. (3) means prescribed by the rules made under sect. 100, *post*. Sub-s. (3).

For the presentation and amendment of a petition alleging illegal practices, see the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70), s. 25. A petition cannot be amended after the period of twenty-one days by the introduction of new charges (*Maude* v. *Lowley*, L. R. 9 C. P. 165; 43 L. J. C. P. 103; 29 L. T. (N. S.) 924; 38 J. P. 280; *Clark* v. *Wallond*, or *Lowley*, 52 L. J. Q. B. 321; 48 L. T. 762; 31 W. R. 551; 47 J. P. 551). Sub-s. (4).

Sect. 89.

For the application of this section to an election of guardians, see note to heading of Part IV. of this Act, *supra*. Note.

The amount of security required for an election petition against guardians is 50*l*., unless an order is made for a lesser amount or for a larger amount not exceeding 300*l*. Sub-s. (1). Sub-s. (2).

The observance of these provisions is a condition precedent to the trial of the petition (*Williams* v. *Tenby, Mayor of*, 5 C. P. D. 135; 49 L. J. C. P. 325; 42 L. T. 187; 28 W. R. 616; 44 J. P. 348). Sub-s. (3).

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the petitioner shall in the prescribed manner serve on the respondent a notice of the presentation of the petition, and of the nature of the proposed security, and a copy of the petition.

(4) Within five days after service of the notice the respondent may object in writing to any recognizance on the ground that any surety is insufficient or is dead, or cannot be found or ascertained for want of a sufficient description in the recognizance, or that a person named in the recognizance has not duly acknowledged the same.

(5) An objection to a recognizance shall be decided in the prescribed manner.

(6) If the objection is allowed, the petitioner may, within a further prescribed time not exceeding five days, remove it by a deposit in the prescribed manner of such sum of money as will, in the opinion of the court or officer having cognizance of the matter, make the security sufficient.

(7) If no security is given, as prescribed, or any objection is allowed and is not removed, as aforesaid, no further proceedings shall be had on the petition.

Petition at issue.

XC. On the expiration of the time limited for making objections, or, after objection made on the objection being disallowed or removed, whichever last happens, the petition shall be at issue.

Municipal election list.

XCI.—(1) The prescribed officer shall as soon as may be make a list, in this Act referred to as the municipal election list, of all election petitions at issue, placing them in the order in which they were presented, and shall keep at his office a copy of this list, open to inspection in the prescribed manner.

(2) The petitions shall, as far as conveniently may be, be tried in the order in which they stand in the list.

(3) Two or more candidates may be made respondents to the same petition, and their cases may be tried at the same time, but for the purposes of this part the petition shall be deemed to be a separate petition against each respondent.

(4) Where more petitions than one are presented relating to the same election, or to elections held at the same time for different wards for the same borough, they shall be bracketed together in the list as one petition, but shall, unless the High Court otherwise directs, stand in the list in the place where the last of them would have stood if it had been the only petition relating to that election.

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Sect. 91.

Note.

For the adaptation of this section to an election of guardians, see note to heading of Part IV. of this Act, *supra*.

Sub-s. (1).

The prescribed officer is the master for the time being nominated as such.

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Constitution of election court.

XCII.—(1) An election petition shall be tried by an election court consisting of a barrister qualified and appointed as in this section provided, without a jury.

(2) A barrister shall not be qualified to constitute an election court if he is of less than fifteen years standing, or is a member of the Commons House of Parliament, or holds any office or place of profit under the Crown, other than that of recorder.

(3) A barrister shall not be qualified to constitute an election court for trial of an election petition relating to any borough for which he is recorder, or in which he resides, or which is included in a circuit of Her Majesty's judges on which he practises as a barrister.

(4) As soon as may be after a municipal election list is made out the prescribed officer shall send a copy thereof to each of the judges for the time being on the rota for the trial of Parliamentary election petitions. . . .

(5) If a commissioner to whom the trial of a petition is assigned dies, or declines or becomes incapable to act, the said judges or two of them may assign the trial to be conducted or continued by any other of the commissioners appointed under this section.

(6) The election court shall for the purposes of the trial have the same powers and privileges as a judge on the trial of a Parliamentary election petition, except that any fine or order of committal by the court may on motion by the person aggrieved be discharged or varied by the High Court, or in vacation by a judge thereof, on such terms, if any, as the High Court or judge thinks fit.

Trial of election petition.

XCIII.—(1) An election petition shall be tried in open court, and notice of the time and place of trial shall be given

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Sect. 92.

Note.

Sub-s. (4).

The remainder of this sub-section is repealed by the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70), and other provisions substituted by sect. 36 (2) of that Act.

Sub-s. (6).

The powers, &c., of a judge on the trial of a Parliamentary election petition are the same as those of a judge of one of the superior courts, and as a judge of assize and *nisi prius* (31 & 32 Vict. c. 125, s. 29). Where a commissioner, after the trial of a petition, has reported persons as having been guilty of corrupt practices, the High Court has no jurisdiction to set aside or amend his report. The High Court possesses no appellate jurisdiction whatever over the commissioner (*Preece* v. *Harding*, 24 Q. B. D. 110; 59 L. J. Q. B. 82; *Shaw* v. *Reckitt*, [1893] 2 Q. B. 59; 62 L. J. Q. B. 375; 69 L. T. 327; 41 W. R. 497; 57 J. P. 805).

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Sect. 93.

Note.

Sub-s. (1).

For the application of this section to an election of guardians, see note to heading of Part IV. of this Act, *supra*.

The "prescribed manner" is that prescribed by rule 41 of the General Rules, 1883, made in pursuance of this Act.

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in the prescribed manner not less than seven days before the day of trial.

(2) The place of trial shall be within the borough, except that the High Court may, on being satisfied that special circumstances exist rendering it desirable that the petition should be tried elsewhere, appoint some other convenient place for the trial.

(3) The election court may in its discretion adjourn the trial from time to time, and from any one place to any other place within the borough or place where it is held.

(4) At the conclusion of the trial the election court shall determine whether the person whose election is complained of, or any and what other person, was duly elected, or whether the election was void, and shall forthwith certify in writing the determination to the High Court, and the determination so certified shall be final to all intents as to the matters at issue on the petition.

(5) Where a charge is made in a petition of any corrupt practice or offence against this part having been committed at the election the court shall, in addition to the certificate, and at the same time, report in writing to the High Court as follows:

(*a.*) Whether any corrupt practice or offence against this part has or has not been proved to have been committed by or with the knowledge and consent of any candidate at the election, and the nature of the corrupt practice or offence:

(*b.*) The names of all persons (if any) proved at the trial to have been guilty of any corrupt practice or offence against this part:

(*c.*) Whether any corrupt practices have, or whether there is reason to believe that any corrupt practices have, extensively prevailed at the election in the borough or in any ward thereof.

(6) The election court may at the same time make a special report to the High Court as to any matters arising in the course of the trial, an account of which ought, in the judgment of the election court, to be submitted to the High Court.

(7) If, on the application of any party to a petition made in the prescribed manner to the High Court, it appears to the

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Sect. 93. Note. Sub-s. (2).

As to what may constitute "special circumstances," see *Lawson* v. *Chester-Master*, [1893] 1 Q. B. 245; 62 L. J. Q. B. 231; 68 L. T. 61; 41 W. R. 221; and see *Arch* v. *Bentinck*, 18 Q. B. D. 548; 53 L. J. Q. B. 458; 56 L. T. 360; 35 W. R. 476, where no facts were in dispute; *Re Sligo Election*, 1 O'M. & H. 309, where intimidation was alleged; and *Collins* v. *Price*, 5 C. P. D. 544, where there was not suitable accommodation.

Sub-s. (7).

Notwithstanding the terms of this sub-section, by reason of sect. 242, *post*, which in effect incorporates the Supreme Court of Judicature Act, 1881 (44 & 45 Vict. c. 68), s. 14, an appeal, if leave be given, will lie from the judgment of the High Court upon

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High Court that the case raised by the petition can be conveniently stated as a special case, the High Court may direct the same to be stated accordingly, and any such special case shall be heard before the High Court, and the decision of the High Court shall be final.

(8) If it appears to the election court on the trial of a petition that any question of law as to the admissibility of evidence, or otherwise, requires further consideration by the High Court, the election court may postpone the granting of a certificate until the question has been determined by the High Court, and for this purpose may reserve any such question, as questions may be reserved by a judge on a trial at *nisi prius*.

(9) On the trial of a petition, unless the election court otherwise directs, any charge of a corrupt practice or offence against this part may be gone into, and evidence in relation thereto received before any proof has been given of agency on behalf of any candidate in respect of the corrupt practice or offence.

(10) On the trial of a petition complaining of an undue election and claiming the office for some person, the respondent may give evidence to prove that that person was not duly elected, in the same manner as if he had presented a petition against the election of that person.

(11) The trial of a petition shall be proceeded with notwithstanding that the respondent has ceased to hold the office his election to which is questioned by the petition.

(12) A copy of any certificate or report made to the High Court on the trial of a petition, and, in the case of a decision by the High Court on a special case, a statement of the decision, shall be sent by the High Court to the Secretary of State.

(13) A copy of any such certificate and a statement of any such decision shall also be certified by the High Court, under the hands of two or more judges thereof, to the town clerk of the borough.

Witnesses.

XCIV.—(1) Witnesses at the trial of an election petition shall be summoned and sworn in the same manner, as nearly as circumstances admit, as witnesses at a trial at *nisi prius*, and shall be liable to the same penalties for perjury.

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Sect. 93. Note. Sub-s. (7).

a case stated (*Line* v. *Warren*, 14 Q. B. D. 548; 54 L. J. Q. B. 291; 49 J. P. 516; *Beresford-Hope* v. *Lady Sandhurst*, 23 Q. B. D. 79; 58 L. J. Q. B. 316; 61 L. T. 150; 37 W. R. 548; 53 J. P. 805). But if special leave be not given no appeal lies (*Unwin* v. *McMullen*, [1891] 1 Q. B. 694; 60 L. J. Q. B. 400; 39 W. R. 712; 55 J. P. 582; *Shaw* v. *Reckitt*, [1893] 2 Q. B. 59; 62 L. J. Q. B. 375; 69 L. T. 327; 41 W. R. 497; 57 J. P. 805).

Sect. 94. Note. Sub-s. (1).

For the application of this section to an election of guardians, see note to heading of Part IV. of this Act, *supra*.

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(2) On the trial the election court may, by order in writing, require any person who appears to the court to have been concerned in the election to attend as a witness, and any person refusing to obey the order shall be guilty of contempt of court.

(3) The court may examine any person so required to attend or being in court although he is not called and examined by any party to the petition.

(4) A witness may, after his examination by the court, be cross-examined by or on behalf of the petitioner and respondent or either of them.

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[Sub-sects. (5), (6), (7), (8). Repealed by the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70).]

(9) The reasonable expenses incurred by any person in appearing to give evidence at the trial of an election petition, according to the scale allowed to witnesses on the trial of civil actions at the assizes, may be allowed to him by a certificate of the election court or of the prescribed officer, and if the witness was called and examined by the court, shall be deemed part of the expenses of providing a court, but otherwise shall be deemed costs of the petition.

Withdrawal of petition.

XCV.—(1) A petitioner shall not withdraw an election petition without the leave of the election court or High Court on special application, made in the prescribed manner, and at the prescribed time and place.

(2) The application shall not be made until the prescribed notice of the intention to make it has been given in the borough.

(3) On the hearing of the application any person who might have been a petitioner in respect of the election may apply to the court to be substituted as a petitioner, and the court may, if it thinks fit, substitute him accordingly.

(4) If the proposed withdrawal is in the opinion of the court induced by any corrupt bargain or consideration, the court may by order direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be

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For the application of this section to an election of guardians, see note to heading of Part IV. of this Act, *supra*.

Note.

Sub-s. (1).

The "manner, time, and place" are prescribed by rules 58—60 of the General Rules, 1883, made in pursuance of this Act. The grounds on which a petition may be allowed to be withdrawn are illustrated in the following cases: *Mallam* v. *Bean*, 51 J. P. 231; *Lichfield Election Petition*, 9 T. L. R. 92; *Halifax Election Petition*, 9 T. L. R. 563; *Pascoe* v. *Puleston*, 54 L. T. 733.

Sub-s. (3).

This is provided for in rule 61 of the General Rules, 1883, made in pursuance of this Act.

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incurred by the substituted petitioner, and that to the extent of the sum named in the security, the original petitioner and his sureties shall be liable to pay the costs of the substituted petitioner.

(5) If the court does not so direct, then security to the same amount as would be required in the case of a new petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner before he proceeds with his petition and within the prescribed time after the order of substitution.

(6) Subject as aforesaid, a substituted petitioner shall, as nearly as may be, stand in the same position and be subject to the same liabilities as the original petitioner.

(7) If a petition is withdrawn, the petitioner shall be liable to pay the costs of the respondent.

(8) Where there are more petitioners than one, an application to withdraw a petition shall not be made except with the consent of all the petitioners.

Abatement of petition.

XCVI.—(1) An election petition shall be abated by the death of a sole petitioner or of the survivor of several petitioners.

(2) The abatement of a petition shall not affect the liability of the petitioner or of any other person to the payment of costs previously incurred.

(3) On the abatement of a petition the prescribed notice thereof shall be given in the borough, and, within the prescribed time after the notice is given, any person who might have been a petitioner in respect of the election may apply to the election court or High Court in the prescribed manner and at the prescribed time and place to be substituted as a petitioner; and the court may, if it thinks fit, substitute him accordingly.

(4) Security shall be given on behalf of a petitioner so substituted, as in the case of a new petition.

Withdrawal and substitution of respondents.

XCVII.—(1) If before the trial of an election petition a respondent other than a returning officer—

(*a.*) Dies, resigns, or otherwise ceases to hold the office to which the petition relates; or

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Note.

For the application of this section to an election of guardians, see note to heading of Part IV. of this Act, *supra*.

Sub-s. (1).

This notice is prescribed by rules 63, 64 of the General Rules, 1883, made in pursuance of this Act.

Sub-s. (3).

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Note.

For the application of this section to an election of guardians, see note to heading of Part IV. of this Act, *supra*.

This "notice" is prescribed by rules 65, 66, and the "time" by rule 67 of the General Rules, 1883, made in pursuance of this Act.

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(*b.*) Gives the prescribed notice that he does not intend to oppose the petition;

the prescribed notice thereof shall be given in the borough, and within the prescribed time after the notice is given any person who might have been a petitioner in respect of the election may apply to the election court or High Court to be admitted as a respondent to oppose the petition, and shall be admitted accordingly, except that the number of persons so admitted shall not exceed three.

(2) A respondent who has given the prescribed notice that he does not intend to oppose the petition shall not be allowed to appear or act as a party against the petition in any proceedings thereon.

Costs on election petitions.

XCVIII.—(1) All costs, charges, and expenses of and incidental to the presentation of an election petition, and the proceedings consequent thereon, except such as are by this Act otherwise provided for, shall be defrayed by the parties to the petition in such manner and proportions as the election court determines; and in particular any costs, charges, or expenses which in the opinion of the court have been caused by vexatious conduct, unfounded allegations, or unfounded objections on the part either of the petitioner or of the respondent, and any needless expense incurred or caused on the part of petitioner or respondent may be ordered to be defrayed by the parties by whom it has been incurred or caused, whether they are or not on the whole successful.

(2) The costs may be taxed in the prescribed manner, *but according to the same principles as costs between solicitor and client in an action in the High Court*, and may be recovered as the costs of such an action, or as otherwise prescribed.

(3) If a petitioner neglects or refuses for three months after demand to pay to any person summoned as a witness on his behalf, or to the respondent, any sum certified to be due to him for his costs, charges, and expenses, and the neglect or refusal is, within one year after the demand, proved to the satisfaction of the High Court, every person who has under this Act entered into a recognizance relating to the petition shall be held to have made default in the recognizance, and the prescribed officer shall thereon certify the recognizance to be forfeited, and it shall be dealt with as a forfeited recognizance relating to a Parliamentary election petition.

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Note. For the application of this section to an election of guardians, see note to heading of Part IV. of this Act, *supra*.

Sub-s. (2). So much of this sub-section as relates to the principles of taxation is repealed by the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70), and replaced by sect. 29 (3) of that Act.

Sub-s. (3). By the Parliamentary Elections Act, 1868 (31 & 32 Vict. c. 125), s. 42, it is provided that forfeited recognizances shall be dealt with in manner provided by the Levy of Fines Act, 1822 (3 Geo. 4, c. 46).

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Reception of and attendance on the election court.

XCIX.—(1) The town clerk shall provide proper accommodation for holding the election court; and any expenses incurred by him for the purposes of this section shall be paid out of the borough fund or borough rate.

(2) All chief and head constables, superintendents of police, headboroughs, gaolers, constables, and bailiffs shall give their assistance to the election court in the execution of its duties, and if any gaoler or officer of a prison makes default in receiving or detaining a prisoner committed thereto in pursuance of this part, he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

(3) The election court may employ officers and clerks as prescribed.

(4) A shorthand writer shall attend at the trial of an election petition, and shall be sworn by the election court faithfully and truly to take down the evidence given at the trial. He shall take down the evidence at length. A transcript of the notes of the evidence taken by him shall, if the election court so directs, accompany the certificate of the election court. His expenses, according to a prescribed scale, shall be treated as part of the expenses incurred in receiving the court.

Rules of procedure and jurisdiction.

C.—(1) The judges for the time being on the rota for the trial of Parliamentary election petitions, may from time to time make, revoke, and alter General Rules for the effectual execution of this part, and of the intention and object thereof, and the regulation of the practice, procedure, and costs of municipal election petitions, and the trial thereof, and the certifying and reporting thereon.

(2) All such rules shall be laid before both Houses of Parliament within three weeks after they are made, if Parliament is then sitting, and if not, within three weeks after the beginning of the then next session of Parliament, and shall, while in force, have effect as if enacted in this Act.

(3) Subject to the provisions of this Act, and of the rules made under it, the principles, practice, and rules for the time being observed in the case of Parliamentary election petitions, and in particular the principles and rules with regard to agency and evidence, and to a scrutiny, and to the declaring any person

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Note.

For the application of this section to an election of guardians, see note to heading of Part IV. of this Act, *supra*.

Sub-s. (1).

Sub-s. (3).

These officers and clerk are prescribed by rules 50, 51 of the General Rules, 1883, made in pursuance of this Act.

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Note.

For the application of this section to an election of guardians, see note to heading of Part IV. of this Act, *supra*. General Rules were made in pursuance of this section on April 17th, 1883.

Sub-s. (1).

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elected in the room of any other person declared to have been not duly elected, shall be observed, as far as may be, in the case of a municipal election petition.

(4) The High Court shall, subject to this Act, have the same powers, jurisdiction, and authority with respect to a municipal election petition and the proceedings thereon as if the petition were an ordinary action within its jurisdiction.

(5) The duties to be performed by the prescribed officer under this part shall be performed by the prescribed officer of the High Court.

(6) The general rules in force at the commencement of this Act with respect to matters within this part shall, until superseded by rules made under this section, and subject to any amendment thereof by rules so made, have effect, with the necessary modifications, as if made under this section.

Expenses of election court.

CI.—(1) The remuneration and allowances to be paid to a commissioner for his services in respect of the trial of an election petition, and to any officers, clerks, or shorthand writers employed under this part, shall be fixed by a scale made and varied by the election judges on the rota for the trial of Parliamentary election petitions, with the approval of the Treasury. The remuneration and allowances shall be paid in the first instance by the Treasury, and shall be repaid to the Treasury, on their certificate, out of the borough fund or borough rate.

(2) But the election court may in its discretion order that such remuneration and allowances, or the expenses incurred by a town clerk for receiving the election court, shall be repaid, wholly or in part, to the Treasury or the town clerk, as the case may be, in the cases, by the persons, and in the manner following (namely):

(*a.*) When in the opinion of the election court a petition is frivolous and vexatious, by the petitioner;

(*b.*) When in the opinion of the election court a respondent has been personally guilty of corrupt practices at the election, by that respondent.

(3) An order so made for the repayment of any sum by a petitioner or respondent may be enforced as an order for payment of costs; but a deposit made or security given under this part shall not be applied for any such repayment until all costs and expenses payable by the petitioner or respondent to any party to the petition have been satisfied.

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Sect. 101.

For the application of this section to an election of guardians, see note to heading of Part IV. of this Act, *supra*.

Note.

Sub-s. (1).

For the liability of a borough to make repayment to the Treasury, see *Reg.* v. *Maidenhead, Mayor, &c. of*, 9 Q. B. D. 494; 51 L. J. Q. B. 444; 46 J. P. 724. And see the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70), s. 32.

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Acts done pending a petition not invalidated.

CII. Where a candidate who has been elected to a corporate office is, by a certificate of an election court or a decision of the High Court, declared not to have been duly elected, acts done by him in execution of the office, before the time when the certificate or decision is certified to the town clerk, shall not be invalidated by reason of that declaration.

Provisions as to elections in the room of persons unseated on petition.

CIII. Where on an election petition the election of any person to a corporate office has been declared void, and no other person has been declared elected in his room, a new election shall be held to supply the vacancy in the same manner as on a casual vacancy; and for the purposes of the election any duties to be performed by a mayor, alderman, or other officer, shall, if he has been declared not elected, be performed by a deputy, or other person who might have acted for him if he had been incapacitated by illness.

Prohibition of disclosure of vote.

CIV. A person who has voted at a municipal election by ballot shall not in any proceeding to question the election be required to state for whom he has voted.

## PART V.

[Part V., relating to corporate property and liabilities, has no application to poor law authorities, except in so far as it is provided by sect. 274 of the Lunacy Act, 1890 (53 Vict. c. 5), that for the purposes of paying any money under that Act, or for repaying any monies borrowed under that Act, or any former Act, the local authority (of a borough) may, subject to the provisions of the Municipal Corporations Act, 1882, borrow on the security of the borough fund, of any revenue of the local authority, such monies as the local authority requires. These provisions are contained in sects. 106, 112, 113 of this Act, and are accordingly printed here.]

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Power to borrow with approval of Treasury.

CVI. The council may, with the approval of the *Treasury*, borrow at interest on the security of any corporate land, or of

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Sect. 102. Note.

For the application of this section to an election of guardians, see note to heading of Part IV. of this Act, *supra*.

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Sect. 103. Note.

For the application of this section to an election of guardians, see note to heading of Part IV. of this Act, *supra*.

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Sect. 104. Note.

For the application of this section to an election of guardians, see note to heading of Part IV. of this Act, *supra*. And see the Ballot Act, 1872 (35 & 36 Vict. c. 33), s. 12.

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Sect. 106. Note.

For "Treasury" now read "Local Government Board" (Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 72). A loan made without the approval of the Local Government Board would

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any land proposed to be purchased by the council under this Act, or of the borough fund or borough rate, or of all or any of those securities, such sums as the council from time to time think requisite for the purchase of land, or for the building of any building which the council are by this Act authorized to build.

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*Repayment of Loans.*

Power for Treasury to impose conditions as to repayment of money borrowed.

CXII.—(1) Where the *Treasury* approve a mortgage or charge under this part they may, as a condition of their approval, require that the money borrowed on the security of the mortgage or charge be repaid, with all interest thereon, in thirty years, or any less period, and either by instalments or by means of a sinking fund, or both.

(2) In that case the sums required for providing for the repayment of the principal and interest of the money borrowed shall be by virtue of this Act a charge on all or any of the following securities, namely, the land comprised in the mortgage (without prejudice to the security thereby created), or any other corporate land, or the borough fund, or the borough or other rates legally applicable to payment of the money borrowed or of the expenses which the money is borrowed to defray, as the *Treasury* direct.

Provisions as to sinking fund.

CXIII.—(1) Where money borrowed under this part is directed to be repaid by means of a sinking fund, the council shall, out of the rents and profits of the land on which, or out of the borough fund or rates on which, the sums required for the sinking fund are charged under this Act, invest such sums, at such times, and in such Government annuities, as the *Treasury* direct, and shall also from time to time invest in like manner all dividends of those annuities.

(2) The annuities shall, in the books of the Bank of England, be placed to the account of the corporation, and in the matter of this Act or of any previous Act under which the investment is made.

(3) The dividends of the annuities shall be received and

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Sect. 106. Note.

apparently not be recoverable by the lender. (See *Ex parte Watson, In re Companies Acts*, 21 Q. B. D. 301; 57 L. J. Q. B. 609; 59 L. T. 401; 36 W. R. 829; 52 J. P. 742.)

Sect. 112. Note.

For "Treasury" read "Local Government Board" (Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 72).

Sect. 113. Note.

For "Treasury" read "Local Government Board" (Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 72).

invested by such persons as the council by power of attorney under the corporate seal from time to time appoint.

(4) No transfer shall be made of the annuities, or of any part thereof, without the consent in writing of the *Treasury* addressed to the chief accountant of the Bank of England.

(5) The direction in writing of the council by power of attorney under the corporate seal, with the consent in writing of the *Treasury*, shall be sufficient authority to the Bank for permitting any such transfer.

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## PART VI.

[Part VI., relating to charitable and other trusts and powers, has no application to poor law authorities.]

## PART VII.

### BOROUGH FUND: BOROUGH RATE: COUNTY RATE.

*Borough Fund.*

Payments to borough fund.

CXXXIX. The rents and profits of all corporate land, and the interest, dividends, and annual proceeds of all money, dues, chattels, and valuable securities belonging or payable to a municipal corporation, or to any member or officer thereof in his corporate capacity, and every fine or penalty for any offence against this Act (except where and as far as the application thereof is otherwise provided for) shall go to the borough fund.

Application of borough fund.

CXL.—(1) The borough fund shall be applicable to and charged with the several payments specified in the fifth schedule.

(2) The payments specified in Part I. of that schedule may be made without order of the council; those specified in Part II. may not be made without such order.

(3) No other payment shall be made out of the borough fund, except—

(*a.*) Under the authority of an Act of Parliament; or

(*b.*) By order of the council; or

(*c.*) By order of the court of quarter sessions for the borough; or

(*d.*) By order of a justice in pursuance of this Act; or

(*e.*) In cases in which the court of quarter sessions for a county, or a justice acting in and for a county in the discharge of his judicial duty, might make an order for the payment of money on the treasurer of the county.

(4) Saving, nevertheless, in relation to the application of the borough fund as authorized by this section, or otherwise

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by this Act, all rights, interests, and demands of all persons in or on the real or personal estate of the municipal corporation, by virtue of any legal proceeding, or of any mortgage, or otherwise.

Orders for payment of money.

CXLI.—(1) An order of the council for payment of money out of the borough fund shall be signed by three members of the council, and countersigned by the town clerk.

(2) Any such order may be removed into the Queen's Bench Division of the High Court by writ of *certiorari*, and may be wholly or partly disallowed or confirmed on motion and hearing, with or without costs, according to the judgment and discretion of the court.

Payments to and by treasurer.

CXLII.—(1) All payments to and out of the borough fund shall be made to and by the treasurer.

(2) All payments to the treasurer shall go to the borough fund.

Application of surplus of borough fund.

CXLIII.—(1) If the borough fund is more than sufficient for the purposes to which it is applicable under this Act, or otherwise by law, the surplus thereof shall be applied under the direction of the council for the public benefit of the inhabitants and improvement of the borough.

(2) If the surplus arises from the rents and profits of the property of the municipal corporation, and not from a borough rate, and the borough is a sanitary district under the Public Health Act, 1875, then the municipal corporation, as the sanitary authority for the borough, may apply the surplus in payment of any expenses incurred by them as such sanitary authority, before or after the commencement of this Act, in improving the borough, or any part thereof, by drainage, enlargement of streets, or otherwise, under the Public Health Act, 1875, or any Act thereby repealed.

*Borough Rate.*

Power for council to make borough rate and assess contribution thereto.

CXLIV.—(1) If the borough fund is insufficient for the purposes to which it is applicable under this Act or otherwise by law, the council shall from time to time estimate, as correctly as may be, what amount, in addition to the borough fund, will be sufficient for those purposes.

(2) In order to raise that amount, the council shall, subject to the provisions of this Act, from time to time order a rate, called a borough rate, to be made in the borough.

(3) A borough rate may be made retrospectively, in order to raise money for the payment of charges and expenses

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Note. Sub-s. (3).

A similar provision is contained in sect. 210 of the Public Health Act, 1875, and under that section, where a judgment was recovered

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incurred, or which have come in course of payment, at any time within six months before the making of the rate.

(4) The council shall assess the contributions to the borough rate on the several parishes and parts of parishes in the borough in proportion to the total annual value of the hereditaments in each parish or part which are rateable to the poor, or in respect of which a contribution is made to the poor rate.

(5) That value shall be estimated according to the valuation list (if any) in force for the time being, and if there is none, according to the last poor rate.

(6) But if for any reason the council think that the valuation list or poor rate is not a fair criterion of value they may cause an independent valuation to be made.

(7) For the purpose of assessing a borough rate, or for the purpose of an independent valuation, the council from time to time may cause any of the books of assessment of any rates or taxes, Parliamentary or parochial, on any property, and the valuation by which the assessment is made, in the hands of the overseers, to be brought before them, and may take copies thereof or extracts therefrom, or may direct any person to take copies of or extracts from such books being in his hands, without having the same brought before the council, or may call before them any overseer to give evidence respecting the same; and may cause copies of the total amount assessed in each parish in respect of any tax payable to the Crown, and the total amount of the valuation of the property on which that assessment was made in any past year, to be made out by the clerk to the commissioners of each district.

(8) The overseers and such persons as they select, by warrant of the council, signed by the mayor and sealed with the corporate seal, may enter on, view, and examine any land chargeable to the borough rate, in order to ascertain the annual value at which it ought to be charged; but no such entry shall in any case be made unless fourteen days' previous notice in writing, signed by the mayor and sealed with the corporate seal, of the

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Sect. 144. Note. Sub-s. (3).

against a local board in an action commenced after the expiration of six months from the accrual of the right of action, and a *mandamus* was sued out within six months to enforce the judgment, the court held that a peremptory writ might be granted if sufficient cause were shown to excuse the delay (*Worthington* v. *Hulton*, L. R. 1 Q. B. 63; 6 B. & S. 943; 35 L. J. Q. B. 61; 13 L. T. (N. S.) 463; 14 W. R. 632; 30 J. P. 22). To the same effect was *Swire* v. *Burley Local Board*, 33 L. T. (O. S.) 222. A judgment debt has been held to be a "charge" (*Reg.* v. *Rotheram Local Board*, 8 E. & B. 906; 27 L. J. Q. B. 156; 4 Jur. (N. S.) 261; 22 J. P. 641).

Sub-s. (5).

The valuation list here referred to is that made under the Union Assessment Committee Acts, 1862 and 1864 (25 & 26 Vict. c. 103; 27 & 28 Vict. c. 39).

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intention to make the entry, has been given to the overseers and to the persons on whose land the entry is to be made.

(9) If on any occasion the overseers of a parish think that their parish is aggrieved by a borough rate, on account of the proportions assessed as the contributions of the respective parishes being unequal, or on account of some parish being without sufficient cause omitted, or on account of any other just cause of complaint, they may appeal to the recorder at the next quarter sessions for the borough, or if there is none, to the next quarter sessions for the county wherein the borough is situate, or whereto it is adjacent, against such part of the rate only as affects their parish.

(10) The recorder or quarter sessions shall hear and finally determine the appeal, and either confirm such parts of the rate as are appealed against, or correct any inequalities, disproportions, or omissions proved to exist therein, as to him or them appears just.

(11) The expenses of the appeal shall be paid by such parishes or persons and in such proportions as the recorder or court having cognizance of the appeal directs.

(12) If any person having custody of any book for which the council call under this section, fails to produce it to the council or to permit any copy thereof or extract therefrom to be made or taken, or to give such evidence as the council require, he shall, on summary conviction, be liable to a fine not exceeding ten pounds.

(13) If any clerk to the commissioners of a district fails to make any copy, which he is required to make under this section, within a reasonable time after his receipt of the order to make it, he shall, on summary conviction, be liable to a fine not exceeding twenty pounds.

Collection of borough rate in undivided parish.

CXLV.—(1) Where a parish is wholly in a borough, the council may from time to time, if they think fit, order the overseers to pay the contribution of the parish to the borough rate out of the poor rate made or to be made for the parish.

(2) The overseers shall pay the contribution to the council or as they order.

(3) If the overseers fail to pay as ordered, the amount may be levied off the goods of them or any of them, by distress, by virtue of a warrant signed by the mayor and sealed with the corporate seal, or signed by two justices in and for the borough.

Collection of borough rate in divided parish.

CXLVI.—(1) Where a parish is partly in and partly out of a borough, the overseers, on receipt of an order for payment of

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Note.

By reason of the operation of the Local Government Act, 1894 (56 & 57 Vict. c. 73), ss. 3, 36, very few parishes are now partly in and partly out of a borough, so that this section is almost obsolete.

money for the contribution of the part in the borough towards a borough rate, which order the council may make as if the whole parish was in the borough, shall assess on and levy from the occupiers of hereditaments rateable to the poor rate in that part of the parish the amount necessary for the contribution, either as a separate rate, for which the overseers shall have all the powers which belong to them for levying a poor rate, or with and as part of the poor rate to which occupiers in that part of the parish are liable in common with occupiers in the other part.

(2) Any person rated under this section may appeal against the rate in like manner and with the like consequences, and subject to the like provisions and regulations, as in appeals against a poor rate.

(3) The overseers shall pay the amount of the contribution to the council, or as they order, and in default thereof shall be subject to all provisions and penalties provided by law concerning non-payment of contribution to a borough rate.

(4) Every overseer and collector shall account for the money collected and expended under this section to the auditor of the district comprising the parish in the like manner, and with the like incidents, consequences, liabilities, and power of appeal as in the case of the poor rate; and the Local Government Board shall have the like power to make orders to regulate the mode of accounting as they have in regard to other local rates.

(5) If any balance is found in the hands of any such overseer or collector he shall apply it towards the next rate required under this section, or pay it to his successor in office.

(6) In default of his so applying it while in office, or making payment to his successor within seven days after the balance is found, the auditor shall proceed to recover it.

(7) The officers ordinarily employed in the collection of the poor rate shall, if required by the overseers, collect the rate under this section, and shall receive thereout such remuneration for the additional duty as the overseers, with the consent of the vestry, determine.

(8) The collector or other person appointed shall, for the purposes of this section, have all the powers of overseers.

(9) The overseers, in estimating the amount of their assessment under this section, may include a sum for costs of assessment and collection, and a reasonable sum for rates excused or irrecoverable.

Rating of owners instead of occupiers for borough rate in certain cases. 32 & 33 Vict. c. 41.

CXLVII. Where the vestry of a parish has made or makes, before or after the commencement of this Act, under section four of the Poor Rate Assessment and Collection Act, 1869, an order, as in that section provided, to the effect that the owners, instead of the occupiers, of such rateable hereditaments, as

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therein mentioned, shall be rated to the poor rate in respect thereof, every such order, while in force after the commencement of this Act, shall be deemed to apply to and include rating to the borough rate, with the same incidents, conditions, powers, liabilities, and remedies as if the borough rate were a poor rate.

Warrants for levy of borough rate.

CXLVIII. Any warrant required for the levy or collection of a borough rate may be issued by the mayor, signed by him, and sealed with the corporate seal.

Borough rate to go to borough fund; and its application.

CXLIX. All sums levied in pursuance of the borough rate shall go to the borough fund; and, subject to the foregoing provisions of this part, the same shall be applied to all purposes to which the borough fund is applicable under this Act, or otherwise by law; and, as regards a borough named in the schedules to the Municipal Corporations Act, 1835, to all purposes to which, before the passing of that Act, borough rate was by law applicable in the borough, or a county rate was applicable in a county.

*County Rate.*

General exemption of quarter sessions boroughs from county rate.

CL.—(1) Where a borough has a separate court of quarter sessions, the *justices of a county* wherein the borough or any part thereof is situate shall not assess any hereditaments in the borough to any county rate; and, except as is expressly by this Act provided, every part of the borough shall be wholly free from contributing to any rate or assessment of any kind of and for that county.

(2) But nothing in this section shall prevent the levy or collection of arrears of any county rate made before the grant of a separate court of quarter sessions.

Liability of quarter sessions borough for prosecution expenses of county.

CLI. The municipal corporation of a borough having a separate court of quarter sessions shall be liable to pay such sums, if any, as are expended out of the county rate of the county in which the borough is situate, and as are not otherwise paid or chargeable, in respect of the costs arising out of the prosecution, maintenance, conveyance, transport, or punishment of all offenders committed for trial from the borough to the assizes for the county.

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Sect. 150. Note. Sub-s. (1).

The county rate is now assessed, made and levied by the county council (Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 3).

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Sect. 151. Note.

The maintenance of offenders is now charged upon the Government by the Prisons Act, 1877 (40 & 41 Vict. c. 21).

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Liability of certain quarter sessions boroughs to other county expenses.

CLII.—(1) If the whole or any part of the area for the time being comprised in a borough having a separate court of quarter sessions was, before the eleventh of July one thousand eight hundred and thirty-two, chargeable with or liable to contribute to the county rate of the county in which it is situate, the municipal corporation shall, in addition to its liability to pay for the purposes mentioned in the last foregoing section, continue liable to contribute to the county rate for other purposes (in this Act referred to as general county purposes), as if this Act had not been passed.

(2) General county purposes shall not include the costs arising out of coroners' inquests, or the expenses incurred under the Sale of Food and Drugs Act, 1875, in respect of the county, or, in the case of a borough having its own inspector of weights and measures, the expenses relating to the inspection of weights and measures for the county, or payments to or in respect of special constables.

38 & 39 Vict. c. 63.

Mode of accounting by borough to county.

CLIII.—(1) *The treasurer of each county* shall, not more than twice in every year, send to the council of each borough situate in the county and having a separate court of quarter sessions an account showing separately—

(*a.*) The sums, if any, expended out of the county rate in respect of the costs arising out of the prosecution, maintenance, conveyance, transport, or punishment of offenders committed for trial from the borough to the assizes for the county; and

(*b.*) If the borough is liable to contribute to the county rate for general county purposes, all sums expended out of the county rate for general county purposes, and all sums received in aid or on account of the county rate, and the proportion chargeable on the borough of the sums so expended after deduction of the sums so received;

and shall make an order on the council for the payment of the sum appearing by this account to be due from the municipal corporation of the borough.

(2) The council shall thereupon forthwith order the sum so appearing to be due, with all reasonable charges of making and sending the account, to be paid to the treasurer of the county out of the borough fund.

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Sect. 152. Note.

See the Local Government Act, 1888 (51 & 52 Vict. c. 41), ss. 38, 39, as to the transfer to the county council of the powers of the council of a borough with a population under 10,000 in respect of coroners, Sale of Food and Drugs Acts, and weights and measures.

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Sect. 153. Note. Sub-s. (1).

The treasurer of the county is now the treasurer of the county council (Local Government Act, 1888, ss. 3 (10), 118 (13)).

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(3) If the order is not complied with, two justices for the county may, on the complaint of the treasurer of the county, made within one month after the issue of the order, issue and send to the treasurer of the borough a warrant requiring him to pay to the treasurer of the county, besides the sum mentioned in the order, the additional sum mentioned in the warrant, the same being calculated in the proportion of one shilling to every ten on the sum mentioned in the order; and until payment thereof the treasurer of the county shall have, in respect of the warrant, all the powers for the recovery thereof which are given against a guardian or overseer for the recovery of county rates and surcharges.

(4) If any difference arises concerning the account, it shall be decided by the arbitration of a barrister, named, on the application either of the treasurer of the county or of the treasurer of the borough, by the Secretary of State. The arbitrator may, if he thinks fit, adjourn the hearing from time to time, and may require all such information to be afforded by either party as he thinks fit. He shall by his award in writing determine the amount to be paid by the council to the treasurer of the county, and his award shall be final and conclusive. He shall also assess the costs of the arbitration and determine by whom and out of what fund they shall be paid.

## PART VIII.

### ADMINISTRATION OF JUSTICE.

*County Justices.*

Jurisdiction of county justices in borough.

CLIV.—(1) Where a borough has not a separate court of quarter sessions, the justices of the county in which the borough is situate shall exercise the jurisdiction of justices in and for the borough as fully as they can or ought in and for the county.

(2) No part of a borough having a separate court of quarter sessions shall be within the jurisdiction, exerciseable out of quarter sessions, of the justices of a county, where the borough

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Sect. 153. Note. Sub-s. (3).

By the County Rates Act, 1852 (15 & 16 Vict. c. 81), ss. 27, 28, if the guardians fail to pay such rates the justices may issue warrants to overseers of parishes, &c., to pay the same; and if the overseers fail to pay, the justices may levy the rate by distress and sale.

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Sect. 154. Note.

County justices have jurisdiction to appoint overseers for a parish comprised in a borough which has no separate court of quarter sessions, and they may make such appointment at their own petty sessions for the division in which such parish is included (*Pember* v. *Evans*, 21 J. P. 438). But the power of appointing overseers may be conferred on the council of such borough under sect. 33 (1) of the Local Government Act, 1894 (56 & 57 Vict. c. 73).

was exempt therefrom before the passing of the Municipal Corporations Act, 1835. Sect. 154.

*Borough Justices.*

Mayor and last mayor to be borough justices.

CLV.—(1) The mayor shall, by virtue of his office, be a justice for the borough, and shall, unless disqualified to be mayor, continue to be such a justice during the year next after he ceases to be mayor.

(2) The mayor shall have precedence over all other justices acting in and for the borough, and be entitled to take the chair at all meetings of justices held in the borough at which he is present by virtue of his office of mayor; except that he shall not by virtue of this section have precedence over the justices acting in and for the county in which the borough or any part thereof is situate, unless when acting in relation to the business of the borough, or over any stipendiary magistrate engaged in administering justice.

Separate commission of peace.

CLVI. It shall be lawful for the Queen, on the petition of the council of a borough, to grant to the borough a separate commission of the peace.

Qualification of borough justice.

CLVII.—(1) It shall be lawful for the Queen, from time to time, to assign to any persons Her Majesty's commission to act as justices in and for each borough having a separate commission of the peace.

(2) A justice for a borough shall not be capable of acting as such until he has taken the oaths required to be taken by justices, except the oath as to qualification by estate, and made before the mayor or two other members of the council a declaration as in the eighth schedule.

(3) He must, while acting as such, reside in or within seven miles of the borough, or occupy a house, warehouse, or other property in the borough.

(4) He need not be a burgess or have such qualification by estate as is required for a justice of a county.

Jurisdiction of borough justices.

CLVIII.—(1) A justice for a borough shall, with respect to offences committed and matters arising within the borough, have the same jurisdiction and authority as a justice for a

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Sect. 155. Note.

The power of appointing overseers in a borough was vested in the mayor by 43 Eliz. c. 2, s. 8 (see *Reg.* v. *Preston*, 12 Q. B. 891; 18 L. J. M. C. 10), but was by the Poor Law (Overseers) Act, 1849 (12 & 13 Vict. c. 8), and the Poor Law (Justices Jurisdiction) Act, 1849 (12 & 13 Vict. c. 64), transferred to the justices having jurisdiction within the borough.

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Sect. 158. Note.

By the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 27, where a union extends into several distinct jurisdictions, every matter, act, charge, or complaint by which the guardians

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county has under any local or general Act with respect to offences committed and matters arising within the county; except that he shall not, by virtue of his being a justice for the borough, act as a justice at any court of gaol delivery or quarter sessions, or in making or levying any county or borough rate.

(2) A justice shall not be disabled from acting in the execution of this Act by reason of his being liable to the borough rate.

Clerk to borough justices.

CLIX.—(1) The justices for a borough shall from time to time appoint a fit person to be their clerk, to be removable at their pleasure.

(2) They shall not appoint or continue as their clerk an alderman or councillor of the borough, or the clerk of the peace of the borough, or of the county in which the borough is situate, or the partner of any such clerk of the peace.

(3) The clerk to the justices shall not, by himself or his partner or otherwise, be directly or indirectly employed or interested in the prosecution of any offender committed for trial by those justices, or any of them, at any court of gaol delivery or quarter sessions.

(4) If any person acts in contravention of the last foregoing provision of this section, he shall for every offence be liable to a fine not exceeding one hundred pounds, recoverable by action.

(5) One moiety of any fine so recovered shall, with costs, be paid to the person bringing the action to recover it.

(6) Nothing in this Act shall prevent the justices for a borough from re-appointing as their clerk any person being clerk of the peace of the borough or of the county in which the

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thereof are affected, or in which they have any interest, shall for the purpose of jurisdiction be deemed to arise or exist equally throughout the union.

Note.

The appellate jurisdiction in respect of matters arising within a union is therefore governed by the jurisdiction of the justices making the order appealed against, so that if a union extends into a borough, and an order of removal is made by justices of the borough, an appeal lies against the order to the borough quarter sessions, and not to the quarter sessions for the county (*Reg.* v. *Staffordshire JJ.*, L. R. 7 Q. B. 288; 41 L. J. M. C. 78; S. C. *Dudley Union* v. *Wolverhampton Union*, 25 L. T. (N. S.) 829).

Sect. 159.

Note.

Courts of petty sessions cannot be held for a borough without a separate commission of the peace, except as courts for the petty sessional division in which the borough is situate. A separate clerk cannot be appointed by the justices usually acting in a borough in which petty sessions are so held, but the justices of the petty sessional division may appoint a separate clerk in respect of each place appointed for holding petty sessions in the division under sect. 5 of the Justices Clerks Act, 1877 (40 & 41 Vict. c. 43). The salary of every clerk so appointed is payable by the county council; and the unappropriated fines and fees must be paid to the county treasurer (*Huntingdon Corporation* v. *Huntingdon County Council* [1901], 2 K. B. 257).

borough is situate, or partner of any such clerk of the peace, if the person re-appointed was, on the sixth of August one thousand eight hundred and sixty-one, or has not ceased to be at the time of re-appointment, the clerk of those justices.

Justices' room.

CLX.—(1) The council of a borough having a separate commission of the peace shall provide and furnish a suitable justices' room, with offices, for the business of the borough justices.

(2) No room in a house licensed for the sale of intoxicating liquors may be used for this purpose.

*Stipendiary Magistrate.*

Appointment of stipendiary magistrate.

CLXI.—(1) If the council desire the appointment of a stipendiary magistrate for the borough, they may present a petition for the appointment to the Secretary of State, and thereupon it shall be lawful for the Queen to appoint to that office a barrister of seven years standing.

(2) He shall hold office during Her Majesty's pleasure.

(3) He shall, by virtue of his office, be a justice for the borough.

(4) There shall be paid to him such yearly salary, not exceeding, except with the consent of the council, that mentioned in the petition, as Her Majesty from time to time directs.

(5) It shall be paid by four equal quarterly payments, and in the same proportion up to the time of his death or ceasing to act.

(6) On a vacancy, a new appointment shall not be made until the council again make application as before the first appointment.

(7) More than one stipendiary magistrate may be appointed for a borough.

*Borough Quarter Sessions: Recorder: Clerk of the Peace.*

Grant of separate court of quarter sessions.

CLXII.—(1) It shall be lawful for the Queen, on the petition to Her Majesty in Council of the council of a borough, to grant that a separate court of quarter sessions be holden in and for the borough.

(2) The petition shall set forth the grounds of the application and the salary which the council are willing to pay to the recorder.

(3) The grant may be made on and subject to such terms and conditions, if any, as to Her Majesty in Council seem fit.

(4) Within ten days after receipt of the grant the council shall send a copy thereof, sealed with the corporate seal, to the clerk of the peace of the county, or each county if more than one, in which the borough or any part thereof is situate.

The recorder.

CLXIII.—(1) It shall be lawful for the Queen from time to time to appoint for a borough having a separate court of quarter sessions a barrister of five years standing to be recorder of the borough.

(2) He shall hold office during good behaviour.

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(3) He shall, by virtue of his office, be a justice for the borough.

(4) He shall not act as recorder, or as a justice, until he has taken the oaths required to be taken by a borough justice, and made before the mayor or two other members of the council a declaration as in the eighth schedule.

(5) He shall have precedence in all places within the borough next after the mayor.

(6) He shall not, during his office, be eligible to serve in Parliament for the borough, or be an alderman, councillor, or stipendiary magistrate of the borough; but he may be appointed revising barrister for the borough, and shall be eligible to serve in Parliament except for the borough.

(7) There shall be paid to him such yearly salary, not exceeding that stated in the petition on which the grant of a separate court of quarter sessions was made, as Her Majesty directs; but the same may at any time be increased by resolution of the council, approved by the Secretary of State, without the resignation and re-appointment of the recorder being necessary.

(8) A person may be appointed recorder of two or more boroughs conjointly.

The clerk of the peace.

CLXIV.—(1) The council of a borough having a separate court of quarter sessions shall from time to time appoint a fit person to be the clerk of the peace for the borough.

(2) The clerk of the peace shall hold office during good behaviour.

(3) The clerk of the peace may from time to time, by writing signed by him, appoint a fit person to act as deputy for him, in case of his illness, incapacity, or absence.

(4) The appointment of the deputy shall be signified in writing, signed by the clerk of the peace, to the council, and shall be recorded in their minutes.

(5) Where a table of the fees to be taken by the clerk of the peace has been made by the council and confirmed by the Secretary of State, and is for the time being in force, the clerk of the peace, if paid by fees, may take the fees to which he appears by that table to be entitled.

(6) The council may from time to time make a new table of the fees to be taken by the clerk of the peace, but shall submit every such table to the Secretary of State for confirmation, and he may confirm and allow the same, either as submitted, or with such alterations, additions, or abatements as he thinks proper, and any such table shall be of no validity until it is so confirmed.

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Recorder to hold court of quarter sessions.

CLXV.—(1) The recorder shall hold, once in every quarter of a year, or oftener, if and as he thinks fit, or the Secretary of State directs, a court of quarter sessions in and for the borough.

(2) He shall sit as sole judge of the court.

(3) The court shall be a court of record, and shall have cognizance of all crimes, offences, and matters cognizable by courts of quarter sessions for counties in England; and the recorder shall, notwithstanding his being sole judge, have power to do all things necessary for exercising that jurisdiction as fully as those courts.

(4) But the recorder shall not, by virtue of his office, have power

(*a.*) To allow, apportion, make, or levy any borough rate; or

(*b.*) Subject to the provisions of this Act respecting appeals from a rate, to do any act in relation to the allowance, apportionment, making, or levying of any rate whatsoever; or

(*c.*) To grant any licence or authority to any person to keep an inn, alehouse, or victualling house to sell exciseable liquors by retail; or

(*d.*) To exercise any power by this Act specially vested in the council.

[Sect. 166. Power to appoint deputy recorder.]

[Sect. 167. Powers of mayor in absence of recorder and deputy recorder.]

[Sect. 168. Power for recorder to form a second court.]

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Sect. 165. Note.

An appeal lies to the recorder against orders of removal made by the borough justices (*Reg.* v. *Hull, Recorder of*, 8 A. & E. 638; *Reg.* v. *Salop JJ.* [1842], 2 Q. B. 85). By the Lunacy Act, 1890 (53 & 54 Vict. c. 5), s. 303, if the guardians of any union feel aggrieved by any order adjudging the settlement of a lunatic, they may appeal to the quarter sessions for the county or borough on behalf of which the order has been obtained, or in which the union obtaining the order is situate, or, in case such union extends into several counties, then to the next quarter sessions for the county or borough in which the institution for lunatics where the lunatic is or has been confined is situate, and such sessions, upon hearing the appeal, shall have full power finally to determine the matter. This provision has the effect of reversing the decision in *Reg.* v. *Warwickshire JJ.*, 28 L. J. M. C. 249; 33 L. T. (N. S.) 201; 5 Jur. (N. S.) 1292; 23 J. P. 757, where it was held that in the case of an order adjudging the settlement of a pauper lunatic confined in the asylum of a borough having a separate court of quarter sessions, and situate within the borough, obtained by a parish situate wholly within the borough, and made by two justices of the borough, the appeal lay to the county and not the borough sessions.

For appeals against borough rates, see sect. 144 (9), (10), *supra*.

Sect. 169.

Liability of borough having quarter sessions for prosecutors' expenses.

CLXIX. A municipal corporation of a borough having a separate court of quarter sessions shall be liable to pay the costs and expenses attending the prosecution of any felony committed or supposed to have been committed in the borough, and of any other offence committed or supposed to have been committed in the borough the costs and expenses attending the prosecution whereof are by law payable as in the case of a felony. The amount of those costs and expenses shall be ascertained as directed by law, and the order of the court for the payment thereof shall be directed to the treasurer of the borough.

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[Sects. 170—196 relate to matters having no connection with the poor law or poor law officers.]

## PART IX.

## POLICE.

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### *Watch Rate.*

Levy of watch rate.

CXCVII.—(1) Where at the commencement of this Act any rate might be levied in a borough, or in any part of a borough, for the purpose of watching solely by day or by night, or for the purpose of watching by day or by night conjointly with any other purpose, the council may from time to time make and levy a watch rate on the occupiers of all hereditaments within such parts of the borough as are watched by day and by night, and as are from time to time, by order of the council, declared liable to watch rate.

(2) The watch rate shall be made on an estimate of the net annual value of the several hereditaments rated thereto, that is to say, of the rent at which, one year with another, they might in their actual state be reasonably expected to let from year to year, the probable annual average cost of the repairs, insurances, and other expenses necessary to maintain them in their actual state, and all rates, taxes, and public charges, except tithes or tithe commutation rent-charge (if any), being paid by the tenant.

(3) The watch rate may be made by one rate made yearly, or by two or more rates made half-yearly or otherwise, and may be of any amount, in the discretion of the council, not exceeding in any year eightpence in the pound on the net annual value of the hereditaments rated thereto.

(4) For the purposes of the watch rate the council and all persons concerned, including overseers, shall have all powers given to them in respect of the borough rate for ordering, making, assessing, levying, raising, collecting, or paying the same, or as near thereto as the nature of the case admits.

Sect. 169. Note.

The order of the court is conclusive as to the liability of the borough to pay the costs (*Reg.* v. *Oswestry, Treasurer of*, 12 Q. B. 239; 17 L. J. Q. B. 223; 12 Jur. 744).

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(5) The provision of this Act relating to orders of vestries for the rating, in some cases, of owners, instead of occupiers, shall extend to the watch rate.

(6) Nothing in the foregoing provisions of this section (except the general power to levy a watch rate) shall apply to any borough in which the borough fund is sufficient with the aid of the amount only of watch rate which could for the time being be raised therein under the Municipal Corporations Act, 1835, and without the aid of any borough rate, to defray the expenses of the constabulary force of the borough, with all other expenses legally payable out of the borough fund; but nothing in the present provision shall affect any benefit or right reserved by Part X., or make the borough fund liable to any expenses with which it would not be otherwise chargeable.

(7) Nothing in this section shall affect the liability of the borough fund to make good any deficiency of the watch rate towards the expenses of the police.

(8) Nothing in this section shall make liable to watch rate any hereditaments exempted by any local Act from payment of watch rate.

(9) Nothing in this section shall alter the comparative liability to watch rate of any hereditaments which are under any local Act in respect of any watch rate entitled to any deduction from, or chargeable with any increase on, an equal pound rate; but the like comparative deductions and increased charges shall be made under this section.

Watch rate in divided parish.

CXCVIII.—(1) Where part only of a parish is liable to watch rate, the overseers shall not pay out of the poor rate the amount of the watch rate charged by the council on that parish, but shall make a separate rate or assessment on the part or parts only of the parish liable to watch rate; which rate shall be made in like manner and under like regulations and with like means and remedies for recovery thereof as in the case of a rate levied in respect of the contribution towards a borough rate.

(2) No such separate rate shall be demanded, collected, or payable until it has been allowed by two justices usually acting in and for the borough and has been published, as a poor rate is by law required to be allowed and published.

(3) Any person who thinks himself aggrieved by such a separate rate may appeal to the recorder at the next quarter

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Note.

Sub-s. (2).

The poor rate is deemed to be made when it is allowed (Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), s. 17); it is published by copies thereof being affixed on the Sunday next after the allowance on or near the doors of all the churches and chapels within the parish (Parish Notices Act, 1837 (7 Will. 4 & 1 Vict. c. 45), s. 2); if there is no church or chapel of the parish, then in some public and conspicuous place in the parish (Poor Rate Assessment and Collection Act, 1869, Amendment Act, 1882 (45 & 46 Vict. c. 20, s. 4).

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sessions for the borough, or if there is none to the next court of quarter sessions for the county wherein the borough is situate, or whereto it is adjacent; and the recorder or court shall hear and determine the same, and shall award relief in the premises as in cases of appeal against a poor rate.

(4) Every such separate rate may be of the rate in the pound necessary for raising the sum charged by the council, but not exceeding twopence in the pound beyond the rate in the pound at which the council have computed the watch rate charged by them.

(5) The overseers shall account for money collected under such a separate rate as for money collected under a poor rate: and if there is a surplus in their hands, they shall pay it to the treasurer, to go to the borough fund, to the credit of the place for which the rate was made, and in part payment of the next watch rate laid on that place by the council.

(6) The council or a committee appointed for this purpose, on application on behalf of any person rated to such a separate rate to be discharged therefrom, and on proof of his inability through poverty to pay the amount charged on him, may order that he be excused from the payment thereof, and may strike out his name therefrom; and the sum at which he was rated shall not thereafter be collected, nor shall any person be charged with it or be liable to account for it or for omitting to collect or receive it.

(7) The overseers making any such separate rate may, by warrant from two justices usually acting in and for the borough, levy on every person refusing to pay the rate the amount charged on him, with the costs and charges of recovering and enforcing payment thereof, to be ascertained by the justices, by distress and sale of the offender's goods, rendering to him the overplus; and in default of such distress two justices may commit him to prison, there to remain without bail until payment of the amount and arrearages.

Warrant for levy of watch rate.

CXCIX. Any warrant required for the levy or collection of a watch rate or separate rate may be issued by the mayor, signed by him, and sealed with the corporate seal.

Watch rate to go to borough fund.

CC. All money raised by a watch rate, or by a separate rate as last aforesaid, shall go to the borough fund.

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## PART XII.

### LEGAL PROCEEDINGS.

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Power for borough constables to take bail.

CCXXVII.—(1) Where a person charged with a petty misdemeanour is brought without the warrant of a justice into the custody of a borough constable during his attendance at a watch-house in the borough, at any time (by day or night) at which a justice is not actually sitting for the public adminis-

tration of justice at the justices' room, or town hall, or other place used for that purpose in the borough, the constable may, if he thinks fit, take bail without fee from that person, by recognizance conditioned for his appearance for examination within two days before a justice in the borough at some time and place therein specified. Sect. 227.

(2) A recognizance so taken shall be of equal obligation on the parties entering into the same, and liable to the same proceedings for the estreating thereof, as if taken before a justice.

(3) The constable shall enter in a book, kept for that purpose in every watch-house, the name, residence, and occupation of the person entering into the recognizance, and of his surety or sureties, if any, with the condition of the recognizance, and the sums acknowledged.

(4) The constable shall lay the book before the justice present at the time when and place where the recognisor is required to appear.

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(7) If the recognisor applies by any person on his behalf to postpone the hearing of the charge against him, and the justice thinks fit to consent thereto, the justice may enlarge the recognizance to such further time as he appoints.

(8) When the matter is heard and determined, either by the dismissal of the charge, or by binding over the recognisor to answer the matter of the complaint at quarter sessions, or otherwise, the recognizance for his appearance before a justice shall be discharged without fee.

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## PART XIII.

### GENERAL.

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*Overseers.*

CCXXXVIII.—(1) Every matter by the Municipal Corporations Acts directed to be done by overseers may be lawfully done by the major part of them. Notices to and acting of overseers.

(2) Any notice by the Municipal Corporations Acts required to be given to overseers may be delivered to any one of them, or left at his place of abode, or at his office for transacting parochial business.

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*Misnomer or Inaccurate Description.*

CCXLI. No misnomer or inaccurate description of any person, body corporate, or place named in any schedule to the Misnomer or inaccurate description not to hinder. Sect. 227.

Sub-sects. (5) and (6) of this section are repealed by the S. J. Act, 1884 (47 & 48 Vict. c. 43). By sect. 9 of that Act it is provided that nothing in sect. 38 of the S. J. Act, 1879 (42 & 43 Vict. c. 39) (as to bail of persons arrested without a warrant) shall be deemed to have repealed anything in this section. Note.

Sect. 241.

Municipal Corporations Act, 1835, or in any roll, list, notice, or voting paper required by this Act, shall hinder the full operation of this Act with respect to that person, body corporate, or place, provided the description of that person, body corporate, or place be such as to be commonly understood.

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*Savings.*

Saving for existing corporations.

CCL.—(1) Nothing in this Act shall prejudicially affect any charter granted before the commencement of this Act, or take away, abridge, or prejudicially affect any of the rights, powers, privileges, estates, property, duties, liabilities, or obligations vested in or imposed on any municipal corporation existing at the commencement of this Act, or in or on the mayor, or the council of a borough then existing, or any members or committee of the council, by the incorporation of the inhabitants of the borough, or by transfer from any other authority, or otherwise; but every such charter shall continue to operate, and every such corporation shall continue to have perpetual succession and a common seal, and to be capable in law by the council to do and suffer all acts which at the commencement of this Act they and their successors respectively may lawfully do or suffer, and the corporation and all members and officers thereof and their sureties, and every such mayor, and every such council and committee, and every such officer, shall continue to have, enjoy, and be subject to the like rights, powers, offices, privileges, estates, property, duties, liabilities, and obligations, as if this Act had not been passed, without prejudice, nevertheless, to the operation of the repeal of enactments by this Act, and to the other express provisions of this Act.

(2) Nothing in this Act shall alter the boundaries of any borough existing at the commencement of this Act, or the number, apportionment, or qualification of the aldermen or councillors thereof, or the division thereof into wards.

(3) Nothing in this Act shall affect the right of the council of a borough to collect by their own officers the borough rate and watch rate, or either of them, where, at the commencement of this Act, they are authorized by law to so collect, and are so collecting, the same.

(4) Nothing in this Act shall alter the respective jurisdiction of county and borough justices.

(5) Nothing in this Act shall affect the right of any borough named in schedule (A.) to the Municipal Corporations Act, 1835, to have a separate commission of the peace.

Saving for local Acts.

CCLI. Nothing in this Act shall alter the effect of any local Act of Parliament.

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Sect. 257.

CCLVII. Nothing in this Act shall—

Saving for universities.

(1) Affect the rights privileges, duties, or liabilities of the chancellor, masters, and scholars of the Universities of Oxford and Cambridge respectively, as by law possessed under the respective charters of those universities or otherwise ; or

(2) Entitle the mayors of Oxford and Cambridge respectively to any precedence over the vice-chancellors of those universities respectively ; or

(3) Entitle any person to be enrolled a citizen of the city of Oxford or burgess of the borough of Cambridge by reason of his occupation of any rooms, chambers, or premises in any college or hall of either of those universities ; or

(4) Compel any resident member of either of those universities to accept any office in or under the municipal corporation of Oxford or of Cambridge ; or

(5) Authorize the levy of any rate within the precincts of those universities, or of any of the colleges or halls thereof, which now by law cannot be levied therein, or make either of those universities, or the members thereof, liable to any rate to which they are not liable to contribute at the commencement of this Act ; or

(6) Authorize the transfer of any rights or liabilities by a local authority to the municipal corporation of the borough of Cambridge without the consent of the chancellor, master, and scholars of the University of Cambridge ; or

(7) Affect the rights or privileges granted by charter or Act of Parliament to the University of Durham.

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SCHEDULES.

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## THIRD SCHEDULE.

ELECTIONS.

PART I.

*Preparations and Revision of Parish Burgess Lists in Boroughs not Parliamentary.*

1. On or before each first of September, the overseers of each parish shall make, sign, and deliver to the town clerk a list called the parish burgess list, of all persons entitled to be enrolled in the burgess roll for the year in respect of property in that parish.

Schedule 3.

2. The overseers shall keep a printed copy of the parish burgess lists made by them open to public inspection on the first fifteenth days of September.

3. The town clerk shall cause a printed copy of all the parish burgess lists to be fixed on the town hall, and to be kept so fixed during the last seven of those fifteen days.

4. Every person whose name is not in a parish burgess list, and who claims to have it inserted therein (in this Act referred to as a claimant), shall, on or before the fifteenth of September, give notice in writing of his claim to the town clerk.

5. Every person whose name is in a parish burgess list may object to any other person as not being entitled to have his name retained in that or any other parish burgess list.

6. Every person so objecting (in this Act referred to as an objector) shall, on or before the fifteenth of September, give to the town clerk, and also give to the person objected to, or leave at or on the property for which he appears in the parish burgess list to be rated, notice in writing of the objection.

7. The town clerk shall make two separate lists of the claimants and the persons objected to (in this Act referred to as respondents), and shall cause printed copies thereof to be fixed on the town hall, and to be kept so fixed during the last seven days of September.

8. He shall also keep a printed copy of each of these lists, open to public inspection on any day during the same seven days.

9. The mayor and the two revising assessors shall in each year revise the parish burgess lists.

10. They shall for this purpose hold an open court in the borough on some or one of the first fifteen days of October.

11. They shall give three clear days' notice of the holding of the court, by notice fixed on the town hall.

12. The town clerk shall at the opening of the court produce the parish burgess lists, and a copy of the lists of claimants and respondents.

13. The court shall insert in the parish burgess lists the name of every person who has duly claimed to have his name inserted therein, and is proved to the satisfaction of the court to be so entitled.

14. The court shall expunge from the parish burgess lists the name of every person proved to the court to be dead.

15. Subject as aforesaid, the court shall retain in the parish burgess lists the name of every person to whom objection has not been duly made.

16. The court shall also retain therein the name of every respondent, unless the objector appears by himself, or by some person on his behalf, in support of the objection.

17. Where the objector so appears, the court shall require proof of the respondent's qualification, and, if it is not proved to the satisfaction of the court, shall expunge his name from the parish burgess list.

18. If the name of any person is entered in respect of property situate in more than one ward, the court may call upon him to choose, and if he does not choose, may determine in which of those wards he shall be entitled to vote.

19. The court shall correct any mistake and supply any omission proved to the court to have been made in any of the lists with respect to the name or abode of any person, or the description of any property.

20. The overseers, vestry clerks, and collectors of poor rates of every parish shall attend the court.

21. The court may require any overseer or person having the custody of any book containing any poor rate made in any year in any parish to produce the same at the court for inspection.

22. The court may examine on oath the town clerk, overseers, vestry clerks, and collectors, and any claimant, objector, respondent, or witness.

23. The court shall, on the hearing in open court, determine on the validity of all claims and objections.

24. The mayor shall, in open court, write his initials against each name inserted or expunged, and against any part of the lists in which a mistake has been corrected or omission supplied, and shall sign his name to every page of the lists so revised.

25. The mayor may adjourn the court from time to time, so that no adjourned court be held after the fifteenth of October.

## PART II.

*Rules as to Nomination in Elections of Councillors.*

1. Every candidate for the office of councillor must be nominated in writing.

2. The writing must be subscribed by two burgesses of the borough or, in the case of a ward election, of the ward, as proposer and seconder, and by eight other burgesses of the borough or ward, as assenting to the nomination.

3. Each candidate must be nominated by a separate nomination paper, but the same burgesses, or any of them, may subscribe as many nomination papers as there are vacancies to be filled, but no more.

4. Each person nominated must be enrolled in the burgess roll or entered in the separate non-resident list required by this Act to be made.

5. The nomination paper must state the surname and other names of the candidate, with his abode and description.

Schedule 3.

6. The town clerk shall provide nomination papers, and shall supply any burgess with as many nomination papers as may be required, and shall, at the request of any burgess, fill up a nomination paper.

7. Every nomination paper subscribed as aforesaid must be delivered by the candidate, or his proposer or seconder, at the town clerk's office, seven days at least before the day of election, and before five o'clock in the afternoon of the last day for delivery of nomination papers.

8. The town clerk shall forthwith send notice of every such nomination to each candidate.

9. The mayor shall attend at the town hall on the day next after the last day for delivery of nomination papers for a sufficient time, between the hours of two and four in the afternoon, and shall decide on the validity of every objection made in writing to a nomination paper.

10. Where a person subscribes more nomination papers than one, his subscription shall be inoperative in all but the one which is first delivered.

11. Each candidate may, by writing signed by him, or, if he is absent from the United Kingdom, then his proposer or seconder may, by writing signed by him, appoint a person (in this schedule referred to as the candidate's representative) to attend the proceedings before the mayor on behalf of the candidate, and this appointment must be delivered to the town clerk before five o'clock in the afternoon of the last day for delivery of nomination papers.

12. Each candidate and his representative, but no other person, except for the purpose of assisting the mayor, shall be entitled to attend the proceedings before the mayor.

13. Each candidate and his representative may, during the time appointed for the attendance of the mayor for the purposes of this schedule, object to the nomination paper of any other candidate for the borough or ward.

14. The decision of the mayor shall be given in writing, and shall, if disallowing an objection, be final, but, if allowing an objection, shall be subject to reversal on petition questioning the election or return.

15. The town clerk shall at least four days before the day of election cause the surnames and other names of all persons validly nominated, with their respective abodes and descriptions, and the names of the persons subscribing their nomination papers as proposers and seconders, to be printed and fixed on the town hall, and in the case of a ward election, in some conspicuous place in the ward.

16. The nomination of a person absent from the United Kingdom shall be void, unless his written consent given within

one month before the day of his nomination in the presence of two witnesses is produced at the time of his nomination.

17. Where the number of valid nominations exceeds that of the vacancies, any candidate may withdraw from his candidature by notice signed by him, and delivered at the town clerk's office not later than two o'clock in the afternoon of the day next after the last day for delivery of nomination papers: Provided that such notices shall take effect in the order in which they are delivered, and that no such notice shall have effect so as to reduce the number of candidates ultimately standing nominated below the number of vacancies.

18. In and for the purposes of the provisions of this Act relating to proceedings preliminary to election, the burgess roll or ward roll which will be in force on the day of election shall be deemed to be the burgess roll or ward roll, and a person whose name is inserted in one of the lists from which the burgess roll or ward roll will be made up, shall be deemed to be enrolled in that roll although that roll is not yet completed.

## PART III.

*Modifications of the Ballot Act in its Application to Municipal Elections.*

1. The provisions of the Ballot Act, 1872, with respect to the voting of a returning officer, the use of a room for taking a poll, and the right to vote of persons whose names are on the register of voters, and rules 16 and 19 in the schedule to that Act, shall not apply in the case of a municipal election.

2. The mayor shall at least four days before the day of election give public notice of the situation, division, and allotment of polling places for taking the poll at the election, and of the description of the persons entitled to vote thereat, and at the several polling stations.

3. The mayor shall provide everything which in the case of a Parliamentary election is required to be provided by the returning officer for the purpose of a poll, and shall appoint officers for taking the poll and counting the votes.

4. The mayor shall furnish every polling station with such number of compartments in which the voters can mark their votes screened from observation and furnish each presiding officer with such number of ballot papers, as in the judgment of the mayor may be necessary for effectually taking the poll at the election.

5. All expenses of the election shall be defrayed in manner by this Act provided.

6. No return shall be made to the clerk of the Crown in Chancery.

Schedule 3.

## PART IV.

*Enactments which are to revive on the Expiration of the Ballot Act.*

With respect to a contested election of councillors, elective auditors, *or revising assessors*, the following rules shall be observed:

1. The returning officer shall cause the requisite polling booths to be erected, or the requisite rooms to be hired and used as polling booths.

2. The returning officer shall, at least two days before the day of election, give public notice of the situation, division, and allotment of the different booths.

3. Each booth shall be divided into compartments, and the returning officer shall appoint a clerk to take the poll at each compartment.

4. There shall be affixed on each booth a notice specifying the part of the borough for which it is allotted.

5. No person shall be admitted to vote at any booth except that allotted for the part in which his qualifying property is situate, unless no booth is allotted for that part, in which case he may vote at any booth.

6. If there is more than one booth, the returning officer may appoint a deputy to preside at each booth.

7. A burgess may vote by delivering to the returning officer or his deputy a voting paper containing the surnames and other names of the persons for whom he votes, with their abodes and descriptions. The voting paper must be signed by the burgess, and must state the qualifying property in respect of which he votes.

8. The returning officer or his deputy shall, if so required by two burgesses, put to any person offering to vote at the time of his delivering in his voting paper, but not afterwards, the following question:

"Are you the person whose name is signed as [*A. B.*] to the voting paper now delivered in by you?"

The vote of a person required to answer this question shall not be received until he has answered it. If any person wilfully makes a false answer thereto he shall be guilty of a misdemeanour.

9. The returning officer shall, at the close of the poll, examine the voting papers, and shall publish a list of the persons elected not later than two o'clock in the afternoon of the day next but one after the day of election.

10. The town clerk shall, for a period of six months from

the day of election, keep at his office the voting papers used at the election, and shall permit any burgess to inspect the same on payment of one shilling for each search. Schedule 3.

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## FIFTH SCHEDULE.

### PAYMENTS OUT OF THE BOROUGH FUND.

### PART I.

*Payments which may be made without Order.*

1. The remuneration (if any) of the mayor, of the recorder (if any) in his capacity either of recorder or of judge of a borough civil court, of the stipendiary magistrate (if any), of the town clerk, of the treasurer, of the clerk of the peace when paid by salary, of every other officer appointed by the council, and of the clerk to the justices.

2. The remuneration and allowances certified by the Treasury to be payable to the Treasury in respect of an election petition.

3. The remuneration certified by the recorder to be due to any assistant recorder, assistant clerk of the peace, or additional crier.

### PART II.

*Payments which may not be made without Order.*

1. The expenses incurred by overseers, and by the town clerk and other municipal authorities, in relation to the enrolment of burgesses and the holding of municipal elections, or so much of those expenses as is not otherwise provided for under section thirty of the Parliamentary and Municipal Registration Act, 1878. 13 & 14 Vict. c. 42, s. 3. 41 & 42 Vict. c. 26.

2. The expenses incurred by the town clerk in providing accommodation for an election court held under this Act.

3. The expenses of providing, furnishing, maintaining, or improving the corporate buildings, including the justices' room (if any), and the necessary expenses of that room.

4. The fees payable to the clerk of the peace if not paid by salary, and under this Act to the borough coroner.

5. The payments to be made under this Act to or in respect of the borough police and to any special constable, including the following payments (namely);

(*a.*) Such salaries, wages, and allowances to the borough constables, and at such periods, as the watch committee, with the approbation of the council, direct; and

Schedule 5.

(*b.*) Such further sum as may be awarded by the watch committee, subject to the approbation of the council, or by the court of quarter or petty sessions, to a borough constable as a reward for extraordinary diligence or exertion, or as a compensation for wounds or severe injuries received in the performance of his duty; and . . .

[Partly repealed by 53 & 54 Vict. c. 45, s. 36.]

(*c.*) Any extraordinary expenses which a borough constable appears to have necessarily incurred in apprehending offenders, and executing the orders of any justice having jurisdiction in the borough, such expenses having been first examined and approved by that justice; and

(*d.*) All other charges and expenses which the watch committee, subject to the approbation of the council, direct to be paid for the purposes of the borough constabulary force.

6. The costs and expenses payable by the corporation in respect of the prosecution, maintenance, conveyance, transport, or punishment of offenders.

7. All sums payable under this Act by the corporation of the borough to the treasurer of a county.

8. The expenses of and incidental to the division of a borough into wards or the alteration of wards, including the remuneration of the commissioner appointed for the purposes of the division or alteration.

9. Such remuneration to the clerk to any commissioners for taxes in respect of making copies of assessments as the council think reasonable.

10. The expenses of and relating to a charter of incorporation for a borough, and of and relating to all elections, acts, and proceedings under the charter.

11. All expenses charged on the borough fund by any Act of Parliament or otherwise by law.

12. All other expenses, not by this Act otherwise provided for, necessarily incurred in carrying this Act into effect.

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# DIVIDED PARISHES AND POOR LAW AMENDMENT ACT, 1882.

45 & 46 VICT. CHAP. 58.

An Act to amend the Divided Parishes and Poor Law Amendment Act, 1876; and for other purposes.

[18th August, 1882.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

I. This Act may be cited as the Divided Parishes and Poor Law Amendment Act, 1882, and shall be construed as one with the Divided Parishes and Poor Law Amendment Act, 1876, in this Act referred to as the principal Act, and the Acts amending the same.

39 & 40 Vict. c. 61.

*Detached Parts of Parishes.*

Detached parts of parishes to form parts of parishes surrounding them.

II. Where any part of a parish is isolated or detached from the other part or parts of the parish, and is wholly surrounded by another parish, such part shall, from and after the twenty-fifth day of March, one thousand eight hundred and eighty-three, be amalgamated with the last-mentioned parish in the same manner and with the same consequences and limitations in every respect, subject nevertheless as herein-after mentioned, as if the amalgamation had been effected by an order of the Local Government Board under the principal Act, and such part shall be deemed to be within the same county as the parish with which it is amalgamated.

Provided as follows:

(1) If two or more isolated or detached parts of parishes adjoin each other, and such parts together are wholly surrounded by another parish, the same shall for the purposes of this Act be deemed one isolated or detached part.

(2) If any question should arise as to whether part of a parish is isolated or detached from the other part or parts of the parish, or is wholly surrounded by another parish, the Local Government Board may by order determine the question.

(3) This section shall not apply to any parish situate wholly or partly in the metropolis.

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See sect. 1 of the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), as amended and extended by s. 6 of the Poor Law Act, 1879 (42 & 43 Vict. c. 54), for provisions as to order of the Local Government Board amalgamating divided parishes.

Sect. 2. Note.

Sect. 3.

Provision for parishes not separately maintaining highways.

III. Where the parish with which any such isolated or detached part of a parish as aforesaid becomes amalgamated, under the provisions of this Act, is not a place separately maintaining its own highways, or entitled to return a separate waywarden to a highway board, the Local Government Board may deal with such parish for highway purposes by an order in like manner as they would have been enabled to deal with the same by a supplemental order under section seven of the Poor Law Act, 1879, if the amalgamation had been effected prior to the passing of that Act by an order under the principal Act.

42 & 43 Vict. c. 54.

Detached parts with a population exceeding 300 may be made separate parishes.

IV. If the population of any such isolated or detached part of a parish as aforesaid exceeds three hundred persons, one-tenth in number and rateable value of the persons appearing on the rate in force for the time being to be rated to the relief of the poor in respect of property within such part may apply to the Local Government Board, in writing, on or before the first day of December next, to have the same declared to be a separate parish, and the board may by order either dismiss the application or constitute such part a separate parish from and after a day to be fixed by the order; and if an order is made dismissing the application, section two of this Act shall not take effect with respect to such part until such order is made.

An order constituting a parish under this section shall have the same consequences and may contain the same provisions as if the same were made under the principal Act, but section two of that Act shall not apply to such order.

Provision as to school districts.

V. Notwithstanding anything contained in the principal Act, any alteration of an area made by or pursuant to this Act shall extend to alter the constitution of the school districts, unless the Education Department otherwise direct.

Extension of 39 & 40 Vict. c. 61, s. 5.

VI. Section five of the principal Act shall apply to any parish in a highway district, although it may not be a parish for which a waywarden can be elected.

Interpretation of county.

VII. For the purposes of the principal Act, and the Acts amending the same, a riding or other division of a county

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Sect. 3. Note.

See 42 & 43 Vict. 54, s. 7.

Sect. 5. Note.

By sect. 4 of 39 & 40 Vict. c. 61, nothing in that Act was to apply to the constitution of school districts without the sanction of the Education Department.

Sect. 7. Note.

The county treasurer is now appointed by the county council (Local Government Act, 1888 (51 & 52 Vict. c. 43), s. 3 (10)).

having a separate court of quarter sessions, or for which a separate county treasurer may be appointed, shall be deemed to be a separate county. Sect. 7.

*Poor Law Amendments.*

VIII. Any wards already formed or hereafter to be formed by the Local Government Board under the Public Health Act, 1872, or the Public Health Act, 1875, for the election of guardians of the poor, and the number of guardians to be elected for such wards respectively, may be altered from time to time by that board as they may think fit. Power to alter wards for election of guardians in certain cases. 35 & 36 Vict. c. 79. 38 & 39 Vict. c. 55.

IX. Where the Local Government Board, by order, under section six of the Metropolitan Poor Act, 1867, have altered, or shall hereafter alter, any district formed under that Act, they may ascertain the proportionate value of the property and the amount of the obligations of every parish or union affected by the change, and may fix the amount to be received, or paid, or secured to be paid by every such parish or union. Adjustment of liabilities in asylum district. 30 & 31 Vict. c. 6.

X. If, for the purpose of giving effect to any adjustment which the Local Government Board are authorized or required to make under the Poor Law Amendment Act, 1834, or the Acts amending the same, it is necessary that a separate rate should be levied on part of a parish only, the board may in the order of adjustment direct such rate to be made, and the same shall be assessed, made, allowed, published, collected, and levied in the same manner and by the same persons as if it were a poor rate and extended to the whole parish. Provision for separate rate.

XI. It shall not be incumbent on the Local Government Board to make an adjustment under the Poor Law Amendment Adjustment of liabilities not required in certain cases. Sect. 8.

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The Public Health Act, 1872 (35 & 36 Vict. c. 79), was repealed by the Public Health Act, 1875 (38 & 39 Vict. c. 55), except as to the metropolis, and as to the metropolis by 54 & 55 Vict. c. 76. The Public Health Act, 1875, by sect. 9 provided for the formation into wards of part of a parish belonging to a rural union forming or situate in an urban sanitary district. This provision was repealed by the Local Government Act, 1894, so that wards for the election of guardians will not *hereafter* be formed under either of the Acts mentioned in this section. The Local Government Board have, however, power under 39 & 40 Vict. c. 61, s. 12, to divide *any* parish into wards; and concurrent powers of dividing parishes into wards are conferred on county councils by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 60 (1). Note.

The adjustment herein referred to is that provided for by the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 32, and by the Dissolved Boards of Management and Guardians Act, 1870 (33 & 34 Vict. c. 2), s. 4, on the dissolution or alteration of unions. Sect. 10. Note.

Sect. 11.

Act, 1834, or the Acts amending the same, in any case where the circumstances appear to them to render such adjustment inexpedient or unnecessary.

Mode of consent by guardians and managers.

XII. Where, under the Poor Law Amendment Act, 1834, or any of the Acts amending the same, the consent in writing of a majority of the guardians of a union or the managers of a school district is required it shall be deemed a sufficient compliance with such requirement if a resolution giving consent is passed at a meeting of the guardians or managers, of which meeting, and of the business to be transacted thereat, not less than fourteen days' notice shall be given to each guardian or manager.

Extension of 25 & 26 Vict. c. 43, s. 1.

XIII. The guardians of any union who send any pauper child to a school certified under the Act of the twenty-fifth and twenty-sixth years of the reign of Her present Majesty, chapter forty-three, may pay the reasonable expenses incurred in the maintenance, clothing, and education of such child whilst in such school to an amount not exceeding such rate of payment as may be sanctioned by the Local Government Board for pauper children sent to such school, anything contained in the said Act to the contrary notwithstanding.

Repeal of 20 Vict. c. 19, s. 2, and 4 & 5 Will. 4, c. 76, s. 18.

*XIV. The following enactments are hereby repealed, viz.:—*

(1) *Section two of the Act of the twentieth year of the reign of*

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Sect. 12.

Note.

By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 32, it was provided that no dissolution, alteration or addition should be made of or to a union without the consent of a majority of two-thirds of the guardians of such union. By the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 66, the Poor Law Commissioners were empowered to separate parishes from, and add parishes to, any union without the consent of the guardians of the union; and by the Metropolitan Poor Amendment Act, 1869 (32 & 33 Vict. c. 63), s. 1, so much of 4 & 5 Will. 4, c. 76, s. 32, as required the concurrence of two-thirds of the guardians in the dissolution of any union was repealed.

The present section supersedes the provisions of the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 10, regulating the mode of consent of guardians for the formation of a school district.

Sect. 13.

Note.

The Poor Law (Certified Schools) Act, 1862 (25 & 26 Vict. c. 43), is extended to illegitimate children by the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 23.

This section is repealed by the Elementary Education (Blind and Deaf Children) Act, 1893 (56 & 57 Vict. c. 42), s. 13, except as to the classes of deaf and dumb children mentioned in that section.

Sect. 14.

Note.

The words in italics are repealed by the S. L. R. Act, 1898, but the latter part of the section is incomprehensible without reference to the repealed words.

A General Order of the Local Government Board dated December 7th, 1882, prescribes the form, &c., of the register of securities.

Sect. 14.

*Her present Majesty, chapter nineteen, relating to the appointment of overseers for extra-parochial places in certain cases;*

(2) *So much of section eighteen of the Poor Law Amendment Act, 1834, as requires copies of the orders of the Poor Law Commissioners to be sealed or stamped with their seal; and*

(3) *So much of section six of the Union and Parish Property Act, 1835, and of the schedule to that Act, and so much of section six of the Parish Property and Parish Debts Act, 1842, as relate to the transmission to the Poor Law Commissioners, and the approval, sealing, and registration by such commissioners of deeds or other instruments, except as regards deeds or instruments executed prior to the date of this Act; and* nothing in the said Acts, or in the Poor Law Amendment Act, 1834, or in the Union Loans Act, 1869, or the Acts amending or extending those Acts respectively, shall be deemed to require the approval or registration by the Local Government Board of any such deed or instrument as aforesaid, or of any lease or agreement for lease made or entered into under the authority of those Acts or any of them.

5 & 6 Will. 4, c. 69.
5 & 6 Vict. c. 18.
4 & 5 Will. 4, c. 76.
32 & 33 Vict. c. 45.

Provided that the guardians or managers, as the case may be, shall keep a register of the securities in respect of all sums borrowed by them, in such form and subject to such regulations as to inspection or otherwise as the Local Government Board may from time to time prescribe.

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## PUBLIC WORKS LOANS ACT, 1882.

45 & 46 VICT. CHAP. 62.

An Act to grant Money for the purpose of Loans by the Public Works Loan Commissioners and the Commissioners of Public Works in Ireland and the Irish Land Commission; and for other purposes relating to Loans by those Commissioners. [18th August, 1882.]

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[I.] This Act may be cited as the Public Works Loans Act, 1882.

Short title.

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VIII. Where after the passing of this Act any money is advanced by the Public Works Loan Commissioners on the security of a rate as defined by the Public Works Loans Act, 1875, the borrowers shall cause their treasurer to keep a separate account under the title of the Public Works Loan Commissioners'

Account in case of loan on security of rate.

Sect. 8.

Loan Account, or such other title as may be approved by the Local Government Board, and shall cause all the said advances to be carried to the credit of that account, and all orders or other documents directing payments out of such account shall show on the face of them that the payment is to be made out of that account, and an order or other document for a payment out of the said account shall not be made or given except the payment is for a purpose for which the said advances were made.

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## MARRIED WOMEN'S PROPERTY ACT, 1882.

45 & 46 VICT. CHAP. 75.

An Act to consolidate and amend the Acts relating to the Property of Married Women. [18th August, 1882.]

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Married woman to be liable to the parish for the maintenance of her husband.

XX. Where in England the husband of any woman having separate property becomes chargeable to any union or parish, the justices having jurisdiction in such union or parish may, in petty sessions assembled, upon application of the guardians of the poor, issue a summons against the wife, and make and enforce such order against her for the maintenance of her husband out of such separate property as by the thirty-third section of the Poor Law Amendment Act, 1868, they may now make and enforce against a husband for the maintenance of his wife if she becomes chargeable to any union or parish. Where in Ireland relief is given under the provisions of the Acts relating to the relief of the destitute poor to the husband of any woman having separate property, the cost price of such relief is hereby declared to be a loan from the guardians of the union in which the same shall be given, and shall be recoverable from such woman as if she were a *feme sole* by the same actions and proceedings as money lent.

31 & 32 Vict. c. 122.

Married woman to be liable to the

XXI. A married woman having separate property shall be subject to all such liability for the maintenance of her children

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Sect. 21.

Note.

For the liability of the husband to support his wife's children and grandchildren, see 43 Eliz. c. 2, s. 7.

The approval by guardians of a deed of separation between husband and wife, whereby the wife agrees to maintain the children of the marriage, does not preclude the guardians from enforcing the liability of the husband to maintain his children in the event of their becoming chargeable (*Westminster Union* v. *Buckle*, 61 J. P. 247).

Before the passing of this Act it was held, with special reference

and grandchildren as the husband is now by law subject to for the maintenance of her children and grandchildren: Provided always, that nothing in this Act shall relieve her husband from any liability imposed upon him by law to maintain her children or grandchildren. Sect. 21. parish for the maintenance of her children.

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XXVII. This Act may be cited as the Married Women's Property Act, 1882. Short title.

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# ALLOTMENTS EXTENSION ACT, 1882.

45 & 46 VICT. CHAP. 80.

An Act for the Extension of Allotments.

[18th August, 1882.]

[*WHEREAS by an Act 2 William IV., cap. 42, the trustees of lands allotted under Inclosure Acts or otherwise appropriated for the benefit of the poor of any parish, together with the churchwardens and overseers of the poor in parish vestry assembled, are required to let portions of such lands in quantities of not more than one statute acre to any one individual, according to their discretion, at a yearly occupation from Michaelmas to Michaelmas, and at such rent as land of the same quality is usually let for in the said parish, to industrious cottagers of good character, being day labourers or journeymen legally settled in the said parish, or dwelling within or near its bounds:*

*And whereas the provisions of the said Act, from its limited application and other causes, have been only partially carried out:*

*And whereas it is expedient that having regard to the present poor law, the benefit thereof should be extended to all the irremovable poor, and that the same should be extended to all*

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to sect. 14 of the Married Women's Property Act, 1870 (33 & 34 Vict. c. 93), that a woman whose husband was alive was not liable under the Poor Law Acts to contribute to the support of her grandchildren, even though she had separate estate, and was able, independently of her husband, to maintain them (*Coleman* v. *Birmingham, Overseers*, 6 Q. B. D. 615; 50 L. J. M. C. 92; 44 L. T. 578; 29 W. R. 715; 45 J. P. 521). Before the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 57, a man was not bound to maintain the children of his wife by a previous husband, and that statute only imposes on him the liability to maintain the *children* of his wife which she had before marriage with him, and not a liability to maintain the *children of those children, i.e.*, his wife's grandchildren. As this section only imposes upon the wife the same liability as her husband is subject to, it follows that a woman whose husband is alive is not liable to maintain her grandchildren, the issue of a previous marriage. Sect. 21. Note.

*lands, whether cultivated or uncultivated, held for the benefit of the poor as herein-after described, and that a summary remedy should be afforded:*]

[Repealed by the S. L. R. Act, 1898.]

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Sect. 1.

Interpretation.

36 & 37 Vict. c. 19.

I. In this Act "trustees" shall mean trustees, feoffees, and managers, whether corporate or sole, or a committee of the same in such cases as are provided for in the Poor Allotments Management Act, 1873.

Short title.

II. This Act may be cited as the Allotments Extension Act, 1882.

Extent of Act.

III. This Act shall not apply to Scotland or Ireland.

Trustees of lands vested for benefit of the poor to give notice as to letting.

IV. All trustees in whom lands are vested or by whom the same are held or managed for the benefit of the poor of any parish or place in or adjoining to that in which such lands are situate, and whereof the rents or produce are distributed in

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Sect. 1.

Note.

36 & 37 Vict. c. 19, s. 3, provides for the appointment of a committee of not more than twelve and not less than six trustees whenever the number of trustees exceeds twenty.

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Sect. 4.

Note.

The repealed preamble stated that one of the objects of this Act was to extend the benefit of 2 Will. 4, c. 42, to all the "irremovable poor," and the words of this section "cottagers, labourers, and *others*" should be interpreted in the light of this statement in the preamble.

By the Allotments Act, 1887 (50 & 51 Vict. c. 48), s. 13 (2), trustees within the meaning of the Allotments Extension Act, 1882, required or authorized by that or any other Act to let lands in allotments to cottagers, journeymen, or others, in any place, may, if they think fit, in lieu of letting such land in manner provided by the said Acts, sell or let such land to the sanitary authority of the district in which such place is wholly or partly situate, upon such terms as may be agreed upon, with the sanction, as regards such trustees, of the Charity Commissioners.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 14, in a rural parish having a parish council, any property held by trustees for the purpose of allotments may, with the consent of the Charity Commissioners, be transferred to the parish council.

This Act has not taken away from the Charity Commissioners the power of authorizing a sale of charity lands vested in them under the Charitable Trusts Acts, 1853 and 1855 (16 & 17 Vict. c. 137; 18 & 19 Vict. c. 124) (*Sutton Parish to Church*, 26 Ch. D. 173; 53 L. J. Ch. 599; 50 L. T. 387; 32 W. R. 485).

Sect. 4.

gifts of money, doles, fuel, clothing, bread, or other articles of sustenance or necessity, shall, where such lands are not otherwise used for the benefit of the parish in which it is situate as a recreation ground, or otherwise for the enjoyment or general benefit of the inhabitants, take proceedings, subject as hereinafter mentioned, for letting such lands as allotments to cottagers, labourers, and others, and—

(1) They shall set apart for the purpose of this Act such field or other portion of the said lands as is most suitable, as regards distance and otherwise, for allotments, and give public notice, in manner directed by the schedule to this Act, of the field or portion so set apart, specifying the situation and extent thereof, and the rent per acre or rod which they are ready to accept for the same when let in allotments, and the times and places at which applications for allotments are to be made :

(2) If any applications for an allotment are received within the time fixed by the notice the trustees shall forthwith proceed to obtain possession of the field or portion set apart, or of so much thereof as is required for the applications, and to fence the same (if necessary) and to let the same in manner provided by this Act :

(3) If the whole of the field or portion so set apart is let in allotments the trustees shall proceed as soon as they have power so to do to set apart another field or portion of their lands for the purpose of this Act, and give public notice thereof as directed by this section, and so on until the whole of their lands are let in allotments, or no applications are received for further allotments :

Provided that—

(*a.*) If application is made within the time aforesaid for part only of the field or portion so set apart, the remainder thereof may be let as provided by this Act in the case of unlet allotments ; and

(*b.*) It shall not be necessary for the trustees to set apart any portion of any such lands as aforesaid, the separation of which from the remainder of such lands not set apart for the time being may make it impossible to let such remainder without substantial loss to the charity, when the whole of such lands cannot conveniently be set apart for allotments ; and they shall have the same powers of letting any remainder of such lands, not set apart for the time being, as if this Act had not passed ; and

(*c.*) If no application is made within the time aforesaid for any part of the field or portion so set apart, the like public notice as is required in the first instance shall

Sect. 4.

be given by the trustees once in every succeeding year; and

(*d.*) Where the said lands are at any time held on lease, the trustees shall proceed to act in pursuance of this Act upon the expiration of such lease, and this Act shall apply as if such expiration were the passing of this Act.

Power to let lands inconveniently situated.

V. If any of the said lands shall be found to lie at an inconvenient distance from the residences of any cottagers or labourers it shall be lawful for the trustees to let such lands, or any part thereof, for the best rent that can be procured for the same, and to hire in lieu thereof, for the purposes of this Act, other land more favourably situated for allotments to the poor of the parish or place for whose benefit such lands are held in trust.

Saving old rights.

VI. Neither this Act nor section twelve of the Poor Allotments Management Act, 1873, shall extend or be applicable to any lands with regard to which the provisions of the second William the Fourth, chapter forty-two, have been put into operation; but all industrious cottagers of good character, being day labourers or journeymen, whether legally settled in any parish in which the said Act of second William the Fourth, chapter forty-two, has been put into operation, or dwelling within its bounds or those of the adjoining parishes, or being poor persons in any such parishes, shall at all times be entitled to and enjoy the benefits, rights, and privileges created and conferred by the second William the Fourth, chapter forty-two, in as full and ample a manner as they would have been entitled to and have enjoyed the same if they had been legally settled in the parish and this Act and section twelve of the Poor Allotments Management Act, 1873, had not been passed.

Preference to cottagers living in parishes where the lands are situate.

VII. The provisions of this Act shall apply to lands held for the benefit of the poor of any parish or place situated in or adjoining to the same parish in which such poor dwell; but where the said lands are situated in or adjoining to several parishes, preference shall be given to the cottagers and labourers being inhabitants of the parish or place for the benefit of the poor of which lands are so held.

Where lands are held partly for benefit of poor.

VIII. Where any lands shall be held as aforesaid, partly for the benefit of the poor, and partly for other objects, the provisions

Sect. 6.

Note.

Sect. 12 of the Poor Allotments Management Act, 1873, provides that rent may, notwithstanding anything to the contrary in 2 Will. 4, c. 42, be required to be paid for allotments in advance. It is the practice, however, of the Charity Commissioners to disallow a rule requiring payment of a whole year's rent in advance, and in general to disallow a rule requiring more than a quarter's rent in advance.

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of the Act shall apply to such a proportion of the entire quantity of the said lands as the amount of the gross income applicable to the poor shall bear to the entire gross income thereof; and in case of difference as to the amount of such gross income, or as to the said proportion, the difference shall be referred to the Charity Commissioners, . . . whose decision shall be final.

Charity Commissioners to settle rules in certain cases.

IX. The trustees or the majority of them may from time to time make, and when made, revoke and vary such rules as may be necessary for the appointment and powers of local managers of allotments under this Act, whether as tenants or agents of the trustees or otherwise, and for preventing the same being built upon or sublet, and preventing any undue preference in such letting, and all other necessary rules, and for giving effect to the provisions of the Act; and such rules as are for the time being in force under this section shall be binding on all persons and corporations whatsoever.

Provided that—

(*a.*) A copy of all rules made under this section shall be sent to the Charity Commissioners as soon as may be after they are made, and the Charity Commissioners may, if they think fit, by order disallow any rules made under this section, and upon such disallowance the same shall be void:

(*b.*) Such public notice as is provided by the schedule to this Act shall be given of all rules in force under this section, and a copy thereof shall be at all times given gratis to any cottager or labourer demanding the same:

(*c.*) Any four cottagers or labourers, or any of the trustees, if aggrieved by any such rules, whether in respect of anything contained therein, or of any omission therefrom, or if aggrieved by the want of any rules, may complain to the Charity Commissioners, and the Charity Commissioners, if they think such complaint is well grounded, may make such order as appears to them necessary to remedy the complaint. Any such order may rescind or alter any such rules, and may make any rules for the purposes of this section, and such rules shall be duly observed by all persons and corporations whatsoever.

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Sect. 9. Note.

The commissioners are not empowered by this section to *approve* rules, but only to *disallow* rules of which they do not approve. Consequently, unless an order is made disallowing rules made by trustees, such rules will be effectual, although if they violate the provisions of this Act it is doubtful whether they could be enforced. (See *Reg.* v. *Wood*, 5 E. & B. 49; S. C. *Reg.* v. *Rose*, 24 L. J. M. C. 130; 1 Jur. (N. S.) 802.)

Sect. 10.

In case of neglect of trustees to publish notice.

X. If the trustees of any such lands shall omit, neglect, or refuse to give such public notice or to proceed for such setting apart of land as is required by this Act, or otherwise to comply with the provisions of this Act, any of the said cottagers or labourers, not being less than four, who would be entitled to rent any allotment out of the said lands under the provisions of this Act if the same had been duly observed shall be entitled, after due notice to such trustees requiring them to remedy the omission, neglect, or refusal specified in the notice, to apply to the Charity Commissioners, and the said commissioners shall inquire into the complaint, and, if satisfied that such omission, neglect, or refusal exists, and requires to be remedied, may issue their order for remedying, in manner specified therein, such omission, neglect, or refusal and such order may be enforced in like manner as an order made by the commissioners under the Charitable Trusts Acts.

Certificate of Charity Commissioners sufficient defence for trustees.

XI. If in the opinion of the trustees such lands as aforesaid shall, either on the ground of distance or on any other ground, be so unsuitable for allotments that no part thereof can be usefully set apart for the purposes of this Act, they shall be at liberty to apply to the Charity Commissioners for a certificate to that effect; and if such certificate be granted they shall not be bound to set apart under this Act any part of the lands to which the same shall apply; and they shall annually give public notice of such certificate so long as the same shall remain in force in the manner directed by the schedule to this Act. Provided always, that it shall be lawful for the said commissioners at any time, for any cause shown to their satisfaction by any person entitled to make an application to them under this Act, to revoke such certificate: Provided also that every certificate given by the Charity Commissioners under this section, unless and until revoked by them, shall be final and conclusive.

Arrears of rent, and in case of refusal of tenant to quit.

8 & 9 Vict. c. 118.

XII. Any rent for any allotment let in pursuance of this Act, and the possession of such allotment in the case of any notice to quit, or other failure to deliver up possession of the same as required by law, may be recovered in all respects as if the same were an allotment under the Inclosure Act, 1845, and the Acts amending the same, and sections one hundred and ten and one hundred and eleven of the Inclosure Act, 1845, shall apply as if they were herein enacted, and as if the trustees, or in the case of the appointment of local managers, such managers, were the allotment wardens within the meaning of the said section.

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Sect. 10.

Note.

An order under the Charitable Trusts Acts is enforceable by attachment (Charitable Trusts Acts, 1853 (16 & 17 Vict. c. 137), s. 14; Charitable Trusts Act, 1855 (18 & 19 Vict. c. 124), s. 9).

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Letting of allotments.

XIII. With respect to the letting of allotments in any field or portion of land set apart for the purposes of this Act the following provisions shall have effect:

(1) Public notice of the intention to let the same shall be given in manner directed in the schedule to this Act:

(2) Every allotment shall be let free of all charges (that is to say), tithe, tithe rent-charge, rates, taxes, and outgoings whatsoever, and shall be let at such rent as land of the same quality is usually let for in the same parish, with such addition as is necessary to satisfy the said charges; and in this section the expression "outgoings" includes the expense of getting possession, and allotting, dividing, and fencing the field or portion of land set apart, and collecting the rents, and any sum payable for such draining of the allotments and means of approach to the allotments as may be necessary:

(3) The trustees shall, for the purposes of all rates, taxes, tithes, and tithe rent-charge, be deemed to be the occupiers of the allotments:

(4) One person shall not hold any allotment or allotments exceeding one acre:

(5) No building whatever shall be erected for or used as a dwelling or workshop on any part of any allotment, and if any building is so erected or used the trustees shall forthwith pull down the same and sell and dispose of the materials thereof, and the proceeds of the sale shall be applicable in like manner as the rent of the allotment:

(6) If at any time the trustees are unable to let any allotment or any portion thereof, they may let the same, or such portion thereof as may be unlet, to any person whatever at the best annual rent which can be obtained for the same, without any premium or fine, and on such terms as may enable them to resume possession thereof within a period not exceeding twelve months if it should at any time be required to be let for allotments; but such letting shall not be deemed to exonerate the trustees from giving public notice under the foregoing provisions of this section.

Provision for allotments in scheme of Charity Commissioners.

XIV. Where a scheme is made by the Charity Commissioners after the passing of this Act in relation to any charity, and part of the endowment of such charity consists of land other than buildings and the appurtenances of buildings, the Charity

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Sect. 13.

Note. Sub-s. (2).

By the Allotments Rating Exemption Act, 1891 (54 & 55 Vict. c. 33), allotments are to be assessed and rated in the same manner as "woodlands," *i.e.*, at one-fourth of their net annual value.

Sect. 14.

Commissioners shall insert in such scheme a provision authorizing the trustees of the charity to set apart portions of the said lands for allotments, and the same may be set apart and let as allotments in like manner as is directed by this Act.

Act not to impair powers conferred by Endowed Schools Acts.

XV. Nothing in this Act contained shall be taken to impair or alter any powers conferred on the trustees of any charities or the Charity Commissioners by the Endowed Schools Acts or the Acts amending the same.

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SCHEDULE.

*Regulations as to Public Notices and Lettings.*

1. Public notice, for the purposes of this Act, shall be given by fixing the notice on the doors of the church of the parish in which the land referred to in the notice is situate, and if there is no church, then some public building or conspicuous place therein.

2. Public notice of the setting apart under this Act of a field or portion of land shall be given in the month of February, or such other month as the trustees may fix, and the first notice shall be given in the said month next after the passing of this Act, and if not so given shall be given as soon as may be afterwards, at such time as may be fixed by the trustees, or, in case of their default, by the county court judge for the district in which the land is situate, or by the Charity Commissioners.

*Letting.*

3. The public notice of the intention to let an allotment out of land when set apart shall specify the amount of land to be let, and the rent per acre or rod to be paid, and the place and time at which applications are to be made, and shall be given annually in the month of June, or in such other month as may be fixed by, or in pursuance of, rules under this Act: Provided that in any year in which there will be no allotment vacant out of land already set apart, it shall not be necessary to give such notice.

4. The first public notice of the intention to let an allotment shall be given in the month of June next after the trustees obtain possession of the allotment, or at such other time, not more than one month later, as may be fixed by or in pursuance of rules under this Act; and, if not so given, shall be given at such time as may be fixed by the county court judge for the district in which the land is situate, or by the Charity Commissioners.

5. The time for applications for allotments out of land when already set apart shall be the month of August, or such other

month as may be fixed by or in pursuance of rules under this Act. Schedule.

6. The allotments shall be let to persons in the order in which they apply, or in accordance with such other order as may be provided by rules under this Act, so that there shall be no undue preference shown as regards the persons to whom they are let.

7. Each allotment shall be let on a yearly tenancy beginning at Michaelmas day, or at such other day as may be fixed by or in pursuance of rules under this Act.

# THE ARMY (ANNUAL) ACT, 1883.

46 & 47 VICT. CHAP. 6.

An Act to provide, during twelve months, for the Discipline and Regulation of the Army. [26th April, 1883.]

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[I.] This Act may be cited as the Army (Annual) Act, 1883. Short title.

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*Amendments of Army Act*, 1881.

* * * * *

VII. Whereas under section one hundred and forty-five of the Army Act, 1881, it is provided that in the case either (*a*) of an order or decree made for payment by a soldier either of the cost of the maintenance of his wife or child, or of any bastard child, or of the cost of any relief given to his wife or child, by way of loan, being sent to a Secretary of State, or (*b*) of it appearing to the satisfaction of a Secretary of State that a soldier has deserted or left in destitute circumstances, without reasonable cause, his wife or any of his legitimate children under fourteen years of age, the Secretary of State may order a sum therein mentioned to be deducted from the daily pay of such soldier, and to be appropriated in the first case in liquidation of the sum adjudged to be paid by such order or decree, and in the second case towards the maintenance of such wife or children: Amendment of s. 145 (2) of 44 & 45 Vict. c. 58, as regards the liability of a soldier to maintain his wife and children.

And whereas it is expedient to make it obligatory on the Secretary of State to make the order in such cases: Be it therefore enacted as follows:—

In section one hundred and forty-five of the Army Act, 1881, the words "Secretary of State shall order" shall be substituted for the words "Secretary of State may order" in the second sub-section.

* * * * *

Sect. 11.

Printing of amendments.

XI. In all copies of the Army Act, 1881, which may be printed after the commencement of this Act the words by this Act directed to be substituted for other words shall be printed therein in lieu of the latter words, and the words directed by this Act to be added shall be added thereto, and the words directed by this Act to be omitted shall be omitted therefrom.

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# POOR LAW CONFERENCES ACT, 1883.

46 & 47 VICT. CHAP. 11.

An Act to provide for Expenses incurred by Guardians of the Poor in relation to Poor Law Conferences.

[18th June, 1883.]

[Preamble repealed by the S. L. R. Act, 1898.]

BE it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

I. This Act may be cited as the Poor Law Conferences Act, 1883.

Conference expenses.

II. The guardians of any union may, when empowered by and subject to any regulations made by the Local Government Board (which regulations the said board is hereby authorized from time to time to make, vary, or rescind), pay the reasonable expenses of any guardian or guardians, or clerk to the guardians, incurred in attending any conference of guardians held for the purpose of discussing any matter which is connected with the duties which devolve on them, and any reasonable expenses incurred in purchasing reports of the proceedings of any such conference, and may charge the amount to their common fund, or, if they have no common fund, to the fund under their control.

Interpretation.

III. Expressions used in this Act have the same respective meanings as they have in the Poor Law Act, 1879.

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Sect. 2.

Note.

The Local Government Board have by General Order dated September 17th, 1883, empowered the guardians of the several unions in England and Wales to pay the reasonable expenses of attending poor law conferences, and of purchasing reports of the proceedings, subject to certain regulations, for which the reader is referred to the order.

Sect. 3.

Note.

The Poor Law Act, 1879, is the 42 & 43 Vict. c. 54.

# THE CORRUPT AND ILLEGAL PRACTICES PREVENTION ACT, 1883.

## 46 & 47 VICT. CHAP. 51.

An Act for the better prevention of Corrupt and Illegal Practices at Parliamentary Elections. [25th August, 1883.]

* * * * *

[This Act deals only with Parliamentary elections, but some of the sections are printed here, inasmuch as they disqualify persons guilty of corrupt or illegal practices from voting at elections for public offices such as guardians, &c. The headings only of the other sections are printed, some of which, viz., sects. 45, 46, 50—57, 59 and 60, are by sect. 30 of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70), incorporated with that Act; but special works on the subject must be consulted as to the general law of corrupt practices at elections, which is outside the scope of this work.]

*Corrupt Practices.*

[Sect. 1. What is treating.]

[Sect. 2. What is undue influence.]

[Sect. 3. What is corrupt practice.]

Punishment of candidate found, on election petition, guilty personally of corrupt practices. 31 & 32 Vict. c. 125.

IV. Where upon the trial of an election petition respecting an election for a county or borough the election court, by the report made to the Speaker in pursuance of section eleven of the Parliamentary Elections Act, 1868, reports that any corrupt practice other than treating or undue influence has been proved to have been committed in reference to such election by or with the knowledge and consent of any candidate at such election, or that the offence of treating or undue influence has been proved to have been committed in reference to such election by any candidate at such election, that candidate shall not be capable of ever being elected to or sitting in the House of Commons for the said county or borough, and if he has been elected, his election shall be void; and he shall further be subject to the same incapacities as if at the date of the said report he had been convicted on an indictment of a corrupt practice.

[Sect. 5. Punishment of candidate found, on election petition, guilty by agents of corrupt practices.]

Punishment of person convicted on indictment of corrupt practices.

VI.—(1) A person who commits any corrupt practice other than personation, or aiding, abetting, counselling, or procuring the commission of the offence of personation, shall be guilty of a misdemeanour, and on conviction on indictment shall be liable

Sect. 6.

to be imprisoned, with or without hard labour, for a term not exceeding one year, or to be fined any sum not exceeding two hundred pounds.

(2) A person who commits the offence of personation, or of aiding, abetting, counselling, or procuring the commission of that offence shall be guilty of felony, and any person convicted thereof on indictment shall be punished by imprisonment for a term not exceeding two years, together with hard labour.

(3) A person who is convicted on indictment of any corrupt practice shall (in addition to any punishment as above provided) be not capable during a period of seven years from the date of his conviction:

(*a.*) of being registered as an elector or voting at any election in the United Kingdom, whether it be a Parliamentary election or an election for any public office within the meaning of this Act; or

(*b.*) of holding any public or judicial office within the meaning of this Act, and if he holds any such office the office shall be vacated.

(4) Any person so convicted of a corrupt practice in reference to any election shall also be incapable of being elected to and of sitting in the House of Commons during the seven years next after the date of his conviction, and if at that date he has been elected to the House of Commons his election shall be vacated from the time of such conviction.

*Illegal Practices.*

[Sect. 7. Certain expenditure to be illegal practice.]

[Sect. 8. Expense in excess of maximum to be illegal practice.]

[Sect. 9. Voting by prohibited persons and publishing of false statements of withdrawal to be illegal.]

[Sects. 7—9 declare what are illegal practices, to which may be added the offence of making false statements of fact in relation to the character or conduct of a candidate. (See the Corrupt and Illegal Practices Prevention Act, 1895 (58 & 59 Vict. c. 40))]

Punishment on conviction of illegal practice.

X. A person guilty of an illegal practice, whether under the foregoing sections or under the provisions herein-after contained in this Act, shall on summary conviction be liable to a fine not exceeding one hundred pounds and be incapable during a period of five years from the date of his conviction of being registered as an elector or voting at any election (whether it be a Parliamentary election or an election for a public office within the

Sect. 6. Note.

The expression "public office" is defined in sect. 64, *infra*.

meaning of this Act) held for or within the county or borough in which the illegal practice has been committed. Sect. 10.

[Sect. 11. Report of election court respecting illegal practice, and punishment of candidate found guilty by such report.]

[Sect. 12. Extension of 15 & 16 Vict. c. 57, respecting election commissioners to illegal practices.]

*Illegal Payment, Employment, and Hiring.*

[Sect. 13. Providing of money for illegal practice or payment to be illegal payment.]

[Sect. 14. Employment of hackney carriages, or of carriages and and horses kept for hire.]

[Sect. 15. Corrupt withdrawal from a candidature.]

[Sect. 16. Certain expenditure to be illegal payment.]

[Sect. 17. Certain employment to be illegal.]

[Sect. 18. Name and address of printer on placards.]

[Sect. 19. Saving for creditors.]

[Sect. 20. Use of committee room in house for sale of intoxicating liquor or refreshment, or in elementary school, to be illegal hiring.]

XXI.—(1) A person guilty of an offence of illegal payment, employment or hiring shall, on summary conviction, be liable to a fine not exceeding one hundred pounds. Punishment of illegal payment, employment, or hiring.

(2) A candidate or an election agent of a candidate who is personally guilty of an offence of illegal payment, employment, or hiring, shall be guilty of an illegal practice.

*Excuse and Exception for Corrupt or Illegal Practice or Illegal Payment, Employment, or Hiring.*

[Sect. 22. Report exonerating candidate in certain cases of corrupt and illegal practice by agents.]

[Sect. 23. Power of High Court and election court to except innocent act from being illegal practice, &c.]

*Election Expenses.*

[Sect. 24. Nomination of election agent.]

[Sect. 25. Nomination of deputy election agent as sub-agent.]

For the disqualification consequent upon conviction, see sect. 10, *supra*. Sect. 21. Note.

Sect. 26.

[Sect. 26. Office of election agent and sub-agent.]

[Sect. 27. Making of contracts through election agent.]

[Sect. 28. Payment of expenses through election agent.]

[Sect. 29. Period for sending in claims and making payments for election expenses.]

[Sect. 30. Reference to taxation of claim against candidates.]

[Sect. 31. Personal expenses of candidate and petty expenses.]

[Sect. 32. Remuneration of election agent and returning officer's expenses.]

[Sect. 33. Return and declaration respecting election expenses.]

[Sect. 34. Authorized excuse for non-compliance with provisions as to return and declaration respecting election expenses.]

[Sect. 35. Publication of summary of return of election expenses.]

*Disqualification of Electors.*

Prohibition of persons guilty of corrupt or illegal practices, &c. from voting.

XXXVI. Every person guilty of a corrupt or illegal practice or of illegal employment, payment, or hiring at an election is prohibited from voting at such election, and if any such person votes his vote shall be void.

Prohibition of disqualified persons from voting.

35 & 36 Vict. c. 60.

45 & 46 Vict. c. 50.

XXXVII. Every person who in consequence of conviction or of the report of any election court or election commissioners under this Act, *or under the Corrupt Practices (Municipal Elections) Act*, 1872, or under Part IV. of the Municipal Corporations Act, 1882, or any other Act for the time being in force relating to corrupt practices at an election for any public office, has become incapable of voting at any election, whether a Parliamentary election or an election to any public office, is prohibited from voting at any such election, and his vote shall be void.

[Sect. 38. Hearing of person before he is reported guilty of corrupt or illegal practice, and incapacity of person reported guilty.]

List in register of voters of persons incapacitated

XXXIX.—(1) The registration officer in every county and borough shall annually make out a list containing the names and description of all persons who, though otherwise qualified to vote at a Parliamentary election for such county or borough

Sect. 37. Note.

The Corrupt Practices (Municipal Elections) Act, 1872 (35 & 36 Vict. c. 60), is repealed as to England by the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50).

Sect. 39.

for voting by corrupt or illegal practices.

45 & 46 Vict. c. 50.

respectively, are not capable of voting by reason of having after the commencement of this Act been found guilty of a corrupt or illegal practice on conviction or by the report of any election court or election commissioners whether under this Act, or under Part IV. of the Municipal Corporations Act, 1882, or under any other Act for the time being in force relating to a Parliamentary election or an election to any public office; and such officer shall state in the list (in this Act referred to as the corrupt and illegal practices list), the offence of which each person has been found guilty.

(2) For the purpose of making out such list he shall examine the report of any election court or election commissioners who have respectively tried an election petition or inquired into an election where the election (whether a Parliamentary election or an election to any public office) was held in any of the following places; that is to say,

(*a.*) if he is the registration officer of a county, in that county, or in any borough in that county; and

(*b.*) if he is the registration officer of a borough, in the county in which such borough is situate, or in any borough in that county.

(3) The registration officer shall send the list to the overseers of every parish within his county or borough, together with his precept, and the overseers shall publish the list together with the list of voters, and shall also, in the case of every person in the corrupt and illegal practices list, omit his name from the list of persons entitled to vote, or, as circumstances require, add "objected" before his name in the lists of claimants or copy of the register published by them, in like manner as is required by law in any other cases of disqualification.

(4) Any person named in the corrupt and illegal practices list may claim to have his name omitted therefrom, and any person entitled to object to any list of voters for the county or borough may object to the omission of the name of any person from such list. Such claims and objections shall be sent in within the same time and be dealt with in like manner, and any such objection shall be served on the person referred to therein in like manner, as nearly as circumstances admit, as other claims and objections under the enactments relating to the registration of Parliamentary electors.

(5) The revising barrister shall determine such claims and objections and shall revise such list in like manner as nearly as circumstances admit as in the case of other claims and objections, and of any list of voters.

(6) Where it appears to the revising barrister that a person not named in the corrupt and illegal practices list is subject to have his name inserted in such list, he shall (whether an objection to the omission of such name from the list has or has not been made, but) after giving such person an opportunity of

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making a statement to show cause to the contrary, insert his name in such list and expunge his name from any list of voters.

(7) A revising barrister in acting under this section shall determine only whether a person is incapacitated by conviction or by the report of any election court or election commissioners, and shall not determine whether a person has or not been guilty of any corrupt or illegal practice.

(8) The corrupt and illegal practices list shall be appended to the register of electors, and shall be printed and published therewith wherever the same is printed or published.

*Proceedings on Election Petition.*

[Sect. 40. Time for presentation of election petitions alleging illegal practice.]

[Sect. 41. Withdrawal of election petition.]

[Sect. 42. Continuation of trial of election petition.]

[Sect. 43. Attendance of director of public prosecutions on trial of election petition, and prosecution by him of offenders.]

[Sect. 44. Power to election court to order payment by county or borough or individual of costs of election petition.]

*Miscellaneous.*

Inquiry by director of public prosecutions into alleged corrupt or illegal practices.

XLV. Where information is given to the director of public prosecutions that any corrupt or illegal practices have prevailed in reference to any election, it shall be his duty, subject to the regulations under the Prosecution of Offences Act, 1879, to make such inquiries and institute such prosecutions as the circumstances of the case appear to him to require.

Removal of incapacity on proof that it was procured by perjury.

XLVI. Where a person has, either before or after the commencement of this Act, become subject to any incapacity under the Corrupt Practices Prevention Acts or this Act by reason of a conviction or of a report of any election court or election commissioners, and any witness who gave evidence against such incapacitated person upon the proceeding for such conviction or report is convicted of perjury in respect of that evidence, the incapacitated person may apply to the High Court, and the court, if satisfied that the conviction or report so far as respects such person was based upon perjury, may order that such incapacity shall thenceforth cease, and the same shall cease accordingly.

[Sect. 47. Amendment of law as to polling districts and polling places.]

[Sect. 48. Conveyance of voters by sea in certain cases.]

[Sect. 49. Election commissioners not to inquire into elections before the passing of this Act.]

*Legal Proceedings.*

[Sect. 50. Trial in Central Criminal Court of indictment for corrupt practice at instance of Attorney-General.]

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[Sect. 51. Limitation of time for prosecution of offence.]

[Sect. 52. Persons charged with corrupt practice may be found guilty of illegal practice.]

[Sect. 53. Application of enactments of 17 & 18 Vict. c. 102, and 26 & 27 Vict. c. 29, relating to prosecutions for bribery.]

[Sect. 54. Prosecution on summary conviction, and appeal to quarter sessions.]

[Sect. 55. Application of Summary Jurisdiction and Indictable Offences Acts to proceedings before election courts.]

[Sect. 56. Exercise of jurisdiction of High Court, and making of rules of court.]

[Sect. 57. Director of public prosecutions, and expenses of prosecutions.]

[Sect. 58. Recovery of costs payable by county or borough or by person.]

*Supplemental Provisions, Definitions, Savings, and Repeal.*

[Sect. 59. Obligation of witness to answer, and certificate of indemnity.]

[Sect. 60. Submission of report of election court or commissioners to Attorney-General.]

[Sect. 61. Breach of duty by officer.]

[Sect. 62. Publication and service of notices.]

[Sect. 63. Definition of candidate, and saving for persons nominated without consent.]

LXIV. In this Act, unless the context otherwise requires— General interpretation of terms.

The expression "election" means the election of a member or members to serve in Parliament:

The expression "election petition" means a petition presented in pursuance of the Parliamentary Elections Act, 1868, as amended by this Act: 31 & 32 Vict. c. 125.

The expression "election court" means the judges presiding at the trial of an election petition, or, if the matter comes before the High Court, that court:

* * * * *

The expression "registration officer" means the clerk of the peace in a county, and the town clerk in a borough, as respectively defined by the enactments relating to the registration of Parliamentary electors:

The expression "elector" means any person whose name is for the time being on the register roll or book containing

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Sect. 64. Note.

The definitions of "High Court," "Court of Summary Jurisdiction," "Petty Sessional Court," and "Summary Jurisdiction Acts" in this section are repealed by the S. L. R. Act, 1898.

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the names of the persons entitled to vote at the election with reference to which the expression is used:

The expression "register of electors" means the said register roll or book:

* * * * *

The expression "public office" means any office under the Crown or under the charter of a city or municipal borough or under the Acts relating to municipal corporations or to the poor law, or under the Elementary Act, 1870, or under the Public Health Act, 1875, or under any Acts amending the above-mentioned Acts, or under any other Acts for the time being in force (whether passed before or after the commencement of this Act) relating to local government, whether the office is that of mayor, chairman, alderman, councillor, guardian, member of a board, commission, or other local authority in any county, city, borough, union, sanitary district, or other area, or is the office of the clerk of the peace, town clerk, clerk or other officer under a council, board, commission, or other authority, or is any other office, to which a person is elected or appointed under any such charter or Act as above-mentioned, and includes any other municipal or parochial office; and the expressions "election," "election petition," "election court," and "register of electors." shall, where expressed to refer to an election for any such public office, be construed accordingly:

33 & 34 Vict. c. 75.
38 & 39 Vict. c. 55.

The expression "judicial office" includes the office of justice of the peace and revising barrister:

* * * * *

Short titles.

LXV.—(1) The enactments specified in the third schedule to this Act are in this Act referred to as the Corrupt Practices Prevention Acts.

[Sub-sect. (2). *Citation of Acts:* Repealed by S. L. R. Act, 1898.]

(3) This Act may be cited as the Corrupt and Illegal Practices Prevention Act, 1883.

(4) This Act and the Corrupt Practices Prevention Acts may be cited together as the Corrupt Practices Prevention Acts, 1854 to 1883.

[Sect. 66. Repeal of Acts.]

[Sect. 67. *Commencement of Act:* Repealed by S. L. R. Act, 1898.]

[Sect. 68. Application of Act to Scotland.]

[Sect. 69. Application of Act to Ireland.]

[Sect. 70. *Continuance of Act:* Repealed by S. L. R. Act, 1898.]

[SCHEDULES.]

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Sect. 64.

Note.

The expression "public office," therefore, includes not only the office of guardian, but also of overseer, assistant overseer, and of any officer elected or appointed under any Act relating to the poor law.

# BANKRUPTCY ACT, 1883.

## 46 & 47 VICT. CHAP. 52.

An Act to amend and consolidate the Law of Bankruptcy.
[25th August, 1883.]

[Only so much of this Act is printed here as may have some relation to poor law matters or authorities.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

*Preliminary.*

I. This Act may be cited as the Bankruptcy Act, 1883. Short title.

* * * * *

XXX.—(1) An order of discharge shall not release the bankrupt from any debt on a recognizance nor from any debt with which the bankrupt may be chargeable at the suit of the Crown or of any person for any offence against a statute relating to any branch of the public revenue, or at the suit of the sheriff or other public officer on a bail bond entered into for the appearance of any person prosecuted for any such offence; and he shall not be discharged from such excepted debts unless the Treasury certify in writing their consent to his being discharged therefrom. An order of discharge shall not release the bankrupt from any debt or liability incurred by means of any fraud or fraudulent breach of trust to which he was a party, nor from any debt or liability whereof he has obtained forbearance by any fraud to which he was a party. Effect of order of discharge.

(2) An order of discharge shall release the bankrupt from all other debts provable in bankruptcy.

(3) An order of discharge shall be conclusive evidence of the bankruptcy, and of the validity of the proceedings therein, and

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Note.

An auditor on April 14th certified a balance to be due from the late overseer of a parish, and on May 5th laid an information against him for the non-payment. At the hearing on May 18th the overseer proved an order of discharge dated May 11th on an adjudication of bankruptcy dated January 4th. *Held* that the balance was a debt only, and the mode given for enforcing it did not make the non-payment an offence, and the debt being provable in the bankruptcy was released by the order of discharge, and no proceedings could be taken to enforce it (*Reg.* v. *Master*, L. R. 4 Q. B. 285; 38 L. J. M. C. 73; 19 L. T. (N. S.) 733; 17 W. R. 442; 33 J. P. 436).

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in any proceedings that may be instituted against a bankrupt who has obtained an order of discharge in respect of any debt from which he is released by the order, the bankrupt may plead that the cause of action occurred before his discharge, and may give this Act and the special matter in evidence.

(4) An order of discharge shall not release any person who at the date of the receiving order was a partner or co-trustee with the bankrupt or was jointly bound or had made any joint contract with him, or any person who was surety or in the nature of a surety for him.

* * * * *

Disqualifications of bankrupt.

XXXII.—(1) Where a debtor is adjudged bankrupt he shall, subject to the provisions of this Act, be disqualified for—

(*a.*) Sitting or voting in the House of Lords, or on any committee thereof, or being elected as a peer of Scotland or Ireland to sit and vote in the House of Lords ;

(*b.*) Being elected to, or sitting or voting in, the House of Commons, or on any committee thereof;

(*c.*) Being appointed or acting as a justice of the peace ;

(*d.*) Being elected to or holding or exercising the office of mayor, alderman, or councillor ;

(*e.*) Being elected to or holding or exercising the office of guardian of the poor, overseer of the poor, member of a sanitary authority, or member of a school board, highway board, burial board, or select vestry.

(2) The disqualifications to which a bankrupt is subject under this section shall be removed and cease if and when—

(*a.*) The adjudication of bankruptcy against him is annulled ; or

(*b.*) He obtains from the court his discharge with a certificate to the effect that his bankruptcy was caused by misfortune without any misconduct on his part.

The court may grant or withhold such certificate as it thinks fit, but any refusal of such certificate shall be subject to appeal.

(3) The disqualifications imposed by this section shall extend to all parts of the United Kingdom.

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Sect. 32. Note.

This section is amended by the Bankruptcy Act, 1890 (53 & 54 Vict. c. 71), s. 9, limiting the disqualification to a period of five years from the date of the discharge. By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 46 (1) (*c*), a person is disqualified from being elected or being a guardian who has within five years before his election or since his election been adjudged bankrupt, or made a composition or arrangement with his creditors.

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Vacating of municipal and other offices.

XXXIV. If a person is adjudged bankrupt whilst holding the office of mayor, alderman, councillor, guardian, overseer, or member of a sanitary authority, school board, highway board, burial board, or select vestry, his office shall thereupon become vacant.

Power for court to annul adjudication in certain cases.

XXXV.—(1) Where in the opinion of the court a debtor ought not to have been adjudged bankrupt, or where it is proved to the satisfaction of the court that the debts of the bankrupt are paid in full, the court may, on the application of any person interested, by order, annul the adjudication.

(2) Where an adjudication is annulled under this section all sales and dispositions of property and payments duly made, and all acts theretofore done, by the official receiver, trustee, or other person acting under their authority, or by the court, shall be valid, but the property of the debtor who was adjudged bankrupt shall vest in such person as the court may appoint, or in default of any such appointment revert to the debtor for all his estate or interest therein on such terms and subject to such conditions, if any, as the court may declare by order.

(3) Notice of the order annulling an adjudication shall be forthwith gazetted and published in a local paper.

Meaning of payment of debts in full.

XXXVI. For the purposes of this part of this Act, any debt disputed by a debtor shall be considered as paid in full, if the debtor enters into a bond, in such sum and with such sureties as the court approves, to pay the amount to be recovered in any proceeding for the recovery of or concerning the debt, with costs, and any debt due to a creditor who cannot be found or cannot be identified shall be considered as paid in full if paid into court.

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[Sect. 40. For the provisions as to the priority of parochial rates in a bankruptcy formerly contained in the repealed sub-sections of sect. 40 of this Act, see the Preferential Payments in Bankruptcy Act, 1888 (51 & 52 Vict. c. 62), *post.*]

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Sect. 34.

Note.

In the case of a guardian the office does not become vacant until the declaration has been made, and the notice given required by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 46 (7).

# THE VALUATION (METROPOLIS) AMENDMENT ACT, 1884.

47 & 48 VICT. CHAP. 5.

An Act to amend the Valuation (Metropolis) Act, 1869, by giving greater facilities for appeal to owners and lessees of houses paying rates and taxes in the place of the occupiers. [28th March, 1884.]

[Preamble recited that the Valuation (Metropolis) Act, 1869, did not sufficiently provide for objections to and appeals against valuation lists in the case of owners and lessees, who by contract or arrangement pay tenant's rates and taxes, more especially when such houses are subdivided into tenements separately rated as hereditaments: Repealed by the S. L. R. Act, 1898.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title and construction.

I. This Act may be cited as the Valuation (Metropolis) Amendment Act, 1884, and shall be read and construed as one Act with the Valuation (Metropolis) Act, 1869 (herein-after called the principal Act).

Enabling owners and lessees to appeal.

II. . . . Where the owner or lessee of any hereditament is liable to be assessed for any rate or tax in the place of the occupier or tenant, or does in fact pay any such rate or tax in his place under any contract or arrangement with him, such owner or lessee shall for the purposes of this Act and the Acts incorporated therewith be deemed to be the occupier of such hereditament, and the person referred to as the ratepayer in sections nineteen and thirty-two of the principal Act, and the person who is to make to the overseers of his parish the statement or return referred to in the fifty-fifth section of the principal Act.

32 & 33 Vict. c. 67. ss. 19, 32, 55.

Provided, that any form of return, order, notice, or document required to be given to or served on the occupier under the principal Act shall, except where the owner or lessee is liable to be assessed to or to pay any rate or tax in the place of the occupier, be deemed to be sufficiently given or served, notwithstanding this Act, if addressed to such occupier and left on the premises to which the return, order, notice, or document relates.

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Sect. 1. Note. The Valuation (Metropolis) Act, 1869, is the 32 & 33 Vict. c. 67.

Sect. 2. Note. The early part of this section, now repealed by the S. L. R. Act, 1898, repealed sect. 70 of 32 & 33 Vict. c. 67, and substituted this section in lieu thereof.

Sect. 3.

One notice or objection may include one or more separately assessed hereditaments.

32 & 33 Vict. c. 67, s. 33.

III. Where any occupier or ratepayer, or any owner or lessee deemed to be an occupier or ratepayer within the meaning of section two of this Act, shall object to the valuation list in respect of any hereditaments, whether consisting of a house or houses subdivided into tenements separately assessed as hereditaments or of separate houses or tenements not so subdivided, it shall be lawful for him to include in any one notice made in pursuance of section thirty-three of the principal Act or otherwise, or in any one objection, appeal, or other proceeding under the principal Act and the Acts incorporated therewith, the whole or any one or more of the hereditaments separately assessed and comprised in one valuation list of which he is or is deemed to be the occupier or ratepayer.

# THE SUMMARY JURISDICTION ACT, 1884.

## 47 & 48 VICT. CHAP. 43.

An Act to repeal divers Enactments rendered unnecessary by the Summary Jurisdiction Acts and other Acts relating to Proceedings before Courts of Summary Jurisdiction, and to make further provision for the uniformity of Proceedings before those Courts. [7th August, 1884.]

[The preamble, sect. 2, portions of several other sections, and the schedule of this Act, are repealed by the S. L. R. Act, 1898.]

BE it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short title.

I. This Act may be cited as the Summary Jurisdiction Act, 1884.

[Sect. 2. *Commencement of Act:* Repealed by the S. L. R. Act, 1898.]

Repeal of obsolete punishments for non-payment of fines and other sums of money.

III. . . . So much of any Act as enacts that a person on non-payment of a sum of money adjudged to be paid by the conviction or order of a court of summary jurisdiction in England shall be liable to be whipped or to any other punishment than imprisonment, with or without hard labour, is hereby repealed.

Repeal of Acts in schedule.

IV. The Acts contained in the schedule to this Act are hereby repealed to the extent in the third column of that schedule mentioned.

Sect. 4.

Note.

The schedule appended to this Act was of great length, and contained the special provisions in numerous Acts as to the recovery of penalties before justices; it is now repealed by the S. L. R. Act, 1898.

Sect. 4.

Provided that—

(1) Where an enactment extends beyond England that enactment shall be repealed only as regards England; and

(2) The expression in the said schedule "conviction or order of a court of summary jurisdiction" shall mean a conviction or order made in pursuance of the Summary Jurisdiction Acts.

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A reference in any Act of Parliament or other document to any enactment repealed by this Act, whether incorporating or applying such enactment or otherwise, shall be construed to refer to the corresponding enactment in the Summary Jurisdiction Acts, and so far as there is no such corresponding enactment shall be repealed.

Removal of doubts as to application of Summary Jurisdiction Acts.

V. . . . The repeal enacted by this Act shall not take away any jurisdiction of any justices to act summarily in any matter referred to in an enactment hereby repealed, and the Summary Jurisdiction Acts shall, so far as is consistent with the tenor thereof, apply to every proceeding before justices as to which the procedure is wholly or partly repealed by this Act in substitution for the procedure so repealed.

. . . Where by virtue of the repeal enacted by this Act or otherwise any statute authorizing the infliction by any justice or justices of a penalty or fine, either as a sole punishment or as an alternative punishment for imprisonment, provides no method for the recovery of such penalty or fine, sections nineteen and twenty-one of the Summary Jurisdiction Act, 1848, as amended by section twenty-one of the Summary Jurisdiction Act, 1879, shall apply to the recovery of such penalty or fine.

11 & 12 Vict. c. 43.
42 & 43 Vict. c. 49.

Application of provisions of 42 & 43 Vict. c. 49, respecting appeals to appeals under prior Acts.

VI. Where a person is authorized by any Act passed before the commencement of the Summary Jurisdiction Act, 1879, to appeal from the conviction or order of a court of summary jurisdiction made in pursuance of the Summary Jurisdiction Acts, or from the refusal to make any conviction or order in pursuance of those Acts, to a court of general or quarter sessions, he shall after the passing of this Act appeal to such court subject to the conditions and regulations contained in the Summary Jurisdiction Act, 1879, with respect to an appeal to a court of general or quarter sessions.

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Sect. 6. Note.

All appeals against orders or convictions of a court of summary jurisdiction are now regulated by sect. 31 of the S. J. Act, 1879 (42 & 43 Vict. c. 49), except appeals from orders under part 10 of the Lunacy Act, 1890 (53 & 54 Vict. c. 5). (See sect. 313 of that Act.)

[Sect. 7. This section, which defined "court of summary jurisdiction," is repealed, and is reproduced by the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 13 (11).] Sect. 7.

VIII. . . . The power of the thirtieth section of the Summary Jurisdiction Act, 1879, given to the justices or council therein mentioned to provide a petty sessional court-house shall be deemed to extend to providing more than one such petty sessional court-house if the justices or council shall think it necessary or expedient so to do. Extension of 42 & 43 Vict. c. 49, s. 30.

. . . A petty sessional court-house or occasional court-house for the use of the justices of any county may be outside the limits of the petty sessional division for which such court-house is provided or appointed, and may be either in the said county, or in any adjoining county or borough, and for the purpose of the jurisdiction of any justices acting in such court-house the same shall be deemed to be within the county and the petty sessional division for which such justices act.

IX. Nothing in section two hundred and twenty-seven of the Municipal Corporations Act, 1882, shall be taken to have repealed section thirty-eight of the Summary Jurisdiction Act, 1879. Removal of doubts as to effect of 45 & 46 Vict. c. 50, s. 227, on 42 & 43 Vict. c. 49, s. 38.

X. Nothing in this Act shall alter the procedure for the recovery of or any remedy for the non-payment of any poor rate, or of any rate or sum the payment of which is not adjudged by the conviction or order of a court of summary jurisdiction. Saving for the recovery of poor rates, &c.

XI. The payment of any sum certified by a district auditor to be due in accordance with the Poor Law Amendment Act, Recovery of payments certified by district auditors.

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Although the procedure for the recovery of poor rates is not affected by this Act, some of the provisions of the S. J. Acts apply to the proceedings. Thus:— Sect. 10.

In 1887 it was held that justices sitting to hear an application for the issue of a distress warrant for the recovery of a sewers rate were a court of summary jurisdiction to the extent at all events that they could state a case on a matter of law arising upon the application, and that stating a case was not part of the procedure for the recovery of a rate within the meaning of this section (*Reg.* v. *London, Lord Mayor of*, 57 L. T. 491). And this decision was in 1892 extended to the case of an application for a distress warrant for recovery of a poor rate (*Fourth City Mutual Building Society* v. *East Ham*, [1892] 1 Q. B. 661; 56 J. P. 440; and see *Reg.* v. *Glamorganshire JJ.*, [1892] 1 Q. B. 621). Note.

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With regard to the payment of sums certified by a district auditor to be due from a poor law officer or authority, see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 32, and the Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91), ss. 5, 9. Sect. 11. Note.

Sect. 11.

1844, and the Acts amending the same, or with any other Act may, together with the costs of the proceedings for the recovery thereof, be enforced in like manner as if it were a sum due in respect of the poor rate.

Effect of forms.

11 & 12 Vict. c. 43.

XII. . . . A form authorized by any rules for the time being in force in pursuance of the said section shall be of the same effect as if it were contained in the Summary Jurisdiction Act, 1848, or in any other Act to which the form is made applicable.

[Schedule of enactments repealed: Repealed by the S. L. R. Act, 1898.]

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# THE NAVAL ENLISTMENT ACT, 1884.

47 & 48 VICT. CHAP. 46.

An Act to amend the Naval Enlistment Act, 1853, and for other purposes connected therewith. [7th August, 1884.]

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Short title and construction.

[I.] This Act and the Naval Enlistment Act, 1835, and the Naval Enlistment Act, 1853, shall be construed together as one Act, and may be cited together as the Naval Enlistment Acts, 1835 to 1884, and this Act may be cited separately as the Naval Enlistment Act, 1884.

II. [Sub-ss. (1) (2) relate to periods of service.]

5 & 6 Will. 4, c. 62.

(3) Any certificate which is by law evidence of the birth of a person, and any declaration under the Statutory Declarations Act, 1835, by the parent or guardian of a person entering into the naval service of Her Majesty as a boy respecting the place of birth of such boy, and a declaration made by a man on entering into the naval service of Her Majesty, respecting his place of birth, shall, for the purposes of this Act and of the said enactments, be evidence until the contrary is proved of the place of birth of the person, boy, or man referred to in the certificate or declaration.

Application of sect. 91 of 44 & 45 Vict. c. 58, to lunatic seamen.

III. Section ninety-one of the Army Act, 1881 (which section relates to the sending of lunatic soldiers by a Secretary of State to workhouses and lunatic asylums and other places in which lunatics can legally be confined), shall apply in like manner as if it were herein re-enacted, with the substitution of "a person

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Sect. 3. Note.

By the Lunacy Act, 1890 (53 & 54 Vict. c. 5), s. 298, the provisions of that Act as to expenses in relation to pauper lunatics are to extend to pauper lunatics sent to asylums under this Act. And see the Criminal Luntiacs Act, 1884 (47 & 48 Vict. c. 64), s. 8.

in the naval service of Her Majesty" for "soldier," and "soldier of the regular forces" respectively, and of "the Admiralty" for "a Secretary of State," and as if any declaration made on a person entering into the naval service of Her Majesty as a boy by his parent or guardian, or made by a man on entering into such service, were respectively substituted for the attestation paper. Sect. 3.

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# THE REVENUE ACT, 1884.

## 47 & 48 VICT. CHAP. 62.

An Act to amend the Law relating to the Customs and Inland Revenue and to the Audit of Public Accounts, and for other purposes connected with the Public Revenue and Expenditure. [14th August, 1884.]

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[I.] This Act may be cited as the Revenue Act, 1884. Short title.

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### PART II.

*Amendment of Law relating to the Inland Revenue.*

VI.—(1) The parishes or places for the time being existing for the purposes of poor law administration in England elsewhere than in the metropolis, as defined by the Valuation (Metropolis) Act, 1869, shall, after the fifth day of April, one thousand eight hundred and eighty-five, and in the said metropolis elsewhere than in the city of London shall, after the fifth day of April one thousand eight hundred and eighty-six, be the parishes and places for which the assessments of the duties of income tax and of the duties on inhabited houses shall be made, and for which assessors and collectors shall be appointed for the purpose of assessing and collecting the said duties. Poor law parishes in England to be parishes for purposes of income tax and inhabited house duties. 32 & 33 Vict. c. 67

(2) In case any parish or place shall be partly in the jurisdiction of one body of general commissioners and partly in the jurisdiction of another body, or other bodies, of general commissioners, the Board of Inland Revenue shall, by order in writing, determine which of the two or several bodies of general commissioners shall have the jurisdiction, and the whole of the parish or place shall be within such jurisdiction accordingly.

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The provisions in this section are amended by the Customs and Inland Revenue Act, 1890 (53 & 54 Vict. c. 8), s. 27, *post*. Sect. 6. Note.

Sect. 6.

(3) If the Board of Inland Revenue shall at any time be of opinion that any parish or place is so large that for the sake of convenience it ought to be divided into districts for which separate assessors and collectors should be appointed, the board may, with the sanction of the Commissioners of Her Majesty's Treasury, certify in writing to the general commissioners in whose jurisdiction the parish or place is, that the same shall be divided into the districts specified in the certificate at the time therein mentioned, and at and after that time each of such districts shall be treated as a parish or place for which a separate assessment of the said duties is to be made, and assessors and collectors are to be appointed.

(4) Any such division may be at any time altered or annulled by the board, with the sanction of the Commissioners of the Treasury, upon a certificate to that effect sent to the said general commissioners.

(5) The union or grouping of parishes or places existing in conformity with law for the purposes of taxes or the collection thereof shall, subject to the powers for the dissolution of such union or grouping, continue in force so far as the same can so continue consistently with the provisions of this section, and the powers in relation to the union or grouping of parishes contained in the Taxes Management Act, 1880, shall remain in full force and effect so far as the same are capable of being exercised consistently with such provisions.

43 & 44 Vict. c. 19.

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# THE CRIMINAL LUNATICS ACT, 1884.

47 & 48 VICT. CHAP. 64.

An Act to consolidate and amend the Law relating to Criminal Lunatics. [14th August, 1884.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

I. This Act may be cited as the Criminal Lunatics Act, 1884.

* * * * *

Order for detention of insane prisoner as criminal lunatic.

II.—(1) Where a prisoner is certified, in manner provided in this section, to be insane, a Secretary of State may, if he thinks fit, by warrant direct such prisoner to be removed to the

Sect. 1. Note.

The provisions of the Lunacy Act, 1890 (53 Vict. c. 5), do not, unless so expressly stated in that Act, extend to criminal lunatics.

Sect. 2.

asylum named in the warrant, and thereupon such prisoner shall be removed to and received in such asylum, and, subject to the provisions of this Act relating to conditional discharge and otherwise, shall be detained therein, or in any other asylum to which he may be transferred in pursuance of this Act, as a criminal lunatic until he ceases to be a criminal lunatic.

(2) A person shall cease to be a criminal lunatic if he is remitted to prison or absolutely discharged in manner provided by this Act, or if any term of penal servitude or imprisonment to which he may be subject determines.

(3) Where it appears to any two members of the visiting committee of a prison that a prisoner in such prison, not being under sentence of death, is insane, they shall call to their assistance two legally qualified medical practitioners, and such members and practitioners shall examine such prisoner and inquire as to his insanity, and after such examination and inquiry may certify in writing that he is insane.

(4) In the case of a prisoner under sentence of death, if it appears to a Secretary of State, either by means of a certificate signed by two members of the visiting committee of the prison in which such prisoner is confined, or by any other means, that there is reason to believe such prisoner to be insane, the Secretary of State shall appoint two or more legally qualified medical practitioners, and the said medical practitioners shall forthwith examine such prisoner and inquire as to his insanity, and after such examination and inquiry such practitioners shall make a report in writing to the Secretary of State as to the sanity of the prisoner, and they, or the majority of them, may certify in writing that he is insane.

(5) The powers and duties by this section conferred and imposed on any two members of the visiting committee of a prison shall be exercised in the case of a prisoner in any prison within the jurisdiction of the Directors of Convict Prisons by the said directors or one of them, and in the case of a prisoner in any prison within the jurisdiction of the Prison Commissioners may also be exercised by the said commissioners or one of them, and in the case of a prisoner in any prison not within the jurisdiction of such directors or commissioners shall be exercised by two visitors of the prison, or by two justices of the county or place in which such prison is situate.

Remitting of criminal lunatic to prison.

III. Where it is certified by two legally qualified medical practitioners that a person being a criminal lunatic (not being a person with respect to whom a special verdict has been returned that he was guilty of the act or omission charged against him,

Sect. 3. Note.

As to persons against whom a special verdict has been returned as above-mentioned, see the Trial of Lunatics Act, 1883 (46 & 47 Vict. c. 38).

Sect. 3.

but was insane at the time when he committed the act or made the omission) is sane, a Secretary of State, if satisfied that it is proper so to do, may by warrant direct such person to be remitted to prison, to be dealt with according to law.

Periodical report of criminal lunatics.

IV.—(1) The superintendent of an asylum or other place in which any criminal lunatic is detained shall make a report to a Secretary of State at such times (not being less than once a year) and containing such particulars as the Secretary of State may require, of the conditions and circumstances of every criminal lunatic in such asylum or place; and the Secretary of State shall, at least once in every three years during which a criminal lunatic is detained in any asylum or other place, take into consideration the condition, history, and circumstances of such lunatic, and determine whether he ought to be discharged or otherwise dealt with.

(2) Where a criminal lunatic is conditionally discharged in pursuance of this Act, a report of his condition shall be made to a Secretary of State by such person at such times and containing such particulars as may be required by the warrant of discharge.

Transfer and discharge (absolute or conditional) of criminal lunatic.

[*See* 23 & 24 Vict. c. 75, s. 9; 27 & 28 Vict. c. 29, s. 2; 30 Vict. c. 12, ss. 4, 5.]

V.—(1) A Secretary of State may from time to time by warrant direct the transfer to an asylum of any criminal lunatic detained in any other asylum or in any other place, and such criminal lunatic shall accordingly be received and detained in the asylum to which he is so transferred.

(2) A Secretary of State by warrant may absolutely discharge any criminal lunatic, and may also discharge any criminal lunatic conditionally, that is to say, on such conditions as to the duration of such discharge and otherwise as the Secretary of State may think fit.

(3) Where in pursuance of this section a criminal lunatic has been discharged conditionally, if any of the conditions of such discharge appear to a Secretary of State to be broken, or the conditional discharge is revoked, the Secretary of State may by warrant direct him to be taken into custody, and to be conveyed to some asylum named in the warrant; and he may thereupon be taken in like manner as if he had escaped from such asylum, and shall be received and detained therein as if he had been removed thereto in pursuance of the foregoing provisions of this Act.

Duty of superintendent on discharge or expiration of sentence.

VI. Where a person, being a criminal lunatic, is detained in any asylum or place, and either he is absolutely discharged or the term of penal servitude or imprisonment to which he is subject determines, it shall be the duty of the superintendent of such asylum or place, unless satisfied that the said person is sane, to take all reasonable means for his being placed under

the care of some relation or friend, or in some asylum or place for the reception of lunatics. Sect. 6.

Person ceasing to be criminal lunatic and becoming pauper lunatic.

VII.—(1) Where a person being a criminal lunatic is detained in an asylum or other place, or being a prisoner in any prison is certified in manner provided by this Act to be insane, but has not been directed by the Secretary of State to be removed to an asylum, and it is made to appear to any justice of the peace having jurisdiction where such asylum or place or prison is situate, or being a member of the visiting committee of such prison, by notice in writing signed by the superintendent of such asylum or place, or by the governor of such prison, either—

(*a.*) that such person is about to be absolutely discharged, or

(*b.*) that any term of penal servitude or imprisonment to which such person is subject is about to determine,

and that in the opinion of such superintendent or governor such person is insane and unfit to be at large, the said justice shall examine such person and make any inquiry and take any medical or other evidence which he may deem necessary respecting him.

(2) The said justice, if satisfied on such examination and inquiry that such person is insane and a proper person to be detained under care and treatment, shall make an order for his detention as a lunatic in the asylum or place of confinement for lunatics named in the order; and if within one month after the date of the said notice such criminal lunatic is absolutely discharged, or such term of penal servitude or imprisonment determines, the said order shall thereupon take effect, and he shall be deemed to be a pauper lunatic.

(3) An order under this section shall be in such form as may be prescribed by a Secretary of State, and there shall be inserted in every such order, wherever it be possible, the name and address of one or more of the relations of the lunatic.

(4) At any time before a person for whose detention an order is made under this section is detained in an asylum or place of confinement for lunatics in pursuance thereof, such order may be amended or cancelled and a new order made by the justice who made the original order, or, if such justice is unable to act, by any other justice having jurisdiction in the same place.

Provision as to detention of person becoming pauper lunatic.

VIII.—(1) Where by virtue of an order made by a justice under this Act a person becomes a pauper lunatic, such person shall for the purposes of this Act be deemed to be *prima facie*

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As to the declaration made on entry into the naval service, see the Naval Enlistment Acts, 1835 (5 & 6 Will. 4, c. 62), and 1884 (47 & 48 Vict. c. 46). As to the attestation paper of a soldier on enlistment, see the Army Act, 1881 (44 & 45 Vict. c. 58), s. 91.

Note.

Sub-s. (1).

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chargeable to the union or parish in the United Kingdom in which it appears to the justice making the order that the ordinary residence of such person was situate at the time when the offence in respect of which he became a criminal lunatic was alleged to have been committed, and, if such residence is not shown to the satisfaction of the said justice, then to such union or parish in the United Kingdom as follows, namely,—

(*a.*) To that in which it appears to the said justice that the said offence was alleged to have been committed; or,

(*b.*) If it appears that the offence was alleged to have been committed out of the United Kingdom, to that in which it appears to the said justice that such person was first apprehended for such offence; or,

(*c.*) If such person appears to have been so apprehended out of the United Kingdom, to that in which it appears to the said justice that such person first landed in the United Kingdom:

Provided that, if such person appears to the justice making the order to have been a man in the naval or military service of Her Majesty or to have been the wife or infant child of a man in such naval or military service at the time when the offence was alleged to have been committed, such person shall for the purposes of this Act be deemed to be *primâ facie* chargeable to the union or parish in the United Kingdom to which the man in such naval or military service appears to the said justice from the statements in the declaration made on his entry into the naval service of Her Majesty, or in his attestation paper on enlistment, or from other available information, to be by law chargeable for the purposes of the Acts relating to the relief of the poor.

(2) Subject as herein-after mentioned, an order made by a justice under this Act for the detention of a person as a lunatic shall, on such person becoming a pauper lunatic, have the same effect as an order of a justice, and medical certificate, made in pursuance of *section sixty-eight of the Lunatic Asylums Act, 1853*, in the case of a lunatic found wandering at large in the union or parish to which such person is *primâ facie* chargeable, and all the provisions of *the Lunacy Act, 1845, and of the*

16 & 17 Vict. c. 97.

8 & 9 Vict. c. 100.

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Sect. 8.

Note.

Sub-s. (2).

For the references in this section to the Lunacy Acts, 1845 and 1853 (now repealed), must be substituted references to the Lunacy Act, 1890 (53 & 54 Vict. c. 5). (See the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 38.) Sect. 68 of the Lunacy Act, 1853, is now replaced by sects. 15, 16, 17 and 19 of the Lunacy Act, 1890.

The effect of an order under this Act will be that the union to which the lunatic is *primâ facie* chargeable will be liable for his maintenance under sect. 286 of the Lunacy Act, 1890, until (if ever) he is adjudged chargeable to the union of his actual settlement under sect. 289, or to the county or borough under sect. 290 if his settlement cannot be ascertained.

*Lunatic Asylums Act, 1853*, and of any Acts amending those Acts or either of them shall apply accordingly in like manner as if such person had been sent from that union or parish: 16 & 17 Vict. c. 97.

And such person on becoming a pauper lunatic, if detained in an asylum or place of confinement to which lunatics may be sent in pursuance of the said *Lunatic Asylums Act, 1853*, shall be deemed to have been received therein in pursuance of the said order of detention, and if detained elsewhere shall be removed by a person named in the order, or any constable, to the asylum or place of confinement for lunatics named in the order, being one to which a justice can send a lunatic found wandering at large in the aforesaid union or parish:

Provided that if such pauper lunatic is certified by a legally qualified medical practitioner to be unfit for removal to such last-mentioned asylum or place of confinement, he may either be removed to and detained in any nearer asylum or place of confinement for lunatics willing to receive him, or may be detained in any asylum or place in which a criminal lunatic may be detained, but in either case he shall be deemed to have been sent to the asylum or place of confinement in which he is so detained, in pursuance of *section sixty-eight of the Lunatic Asylums Act, 1853*, and the expenses incurred in relation to such lunatic shall be defrayed, and the lunatic, when fit to be removed, may be removed accordingly, and where the lunatic is detained in any asylum or place to which lunatics cannot be sent, in pursuance of the *Lunatic Asylums Act, 1853*, the provisions of the above-mentioned Acts shall apply as if such asylum or place were an asylum within the meaning of the *Lunatic Asylums Act, 1853*, and the council of supervision or other persons having control thereof were visitors.

(3) Provided that in any case where the union or parish to which a person will for the purposes of this Act be deemed to be *primâ facie* chargeable is in Scotland or Ireland, the justice making an order under this Act for the detention of such person as a lunatic shall report the same to a Secretary of State, and thereupon a Secretary of State may, by warrant, direct the removal of such person upon his becoming a pauper lunatic to Scotland or Ireland, as the case may be, and if he is unfit to be removed shall cause the expenses incurred in relation to such person to be paid and they shall be paid by the same persons and out of the same funds as if he had been actually removed.

(4) Where such person is removed to Scotland, he shall be removed to the general prison at Perth, and may be dealt with in the same manner as if he were a person certified to be insane in pursuance of section twenty-three of the Lunacy (Scotland) Act, 1862, and had been committed to a local prison for the place to which he is *primâ facie* chargeable. 25 & 26 Vict. c. 54.

(5) Where such person is removed to Ireland he shall be removed to the central criminal lunatic asylum established in pursuance of the Central Criminal Lunatic Asylum (Ireland) 8 & 9 Vict. c. 107.

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Act, 1845, and shall be received in the said central criminal lunatic asylum, and may be dealt with in manner provided by section twelve of the Lunatic Asylums (Ireland) Act, 1875, as if he were a person therein confined whose sentence had expired; but he shall not, by reason only that he is for the purposes of this Act deemed to be *primâ facie* chargeable to any union or parish, be deemed for the purposes of the said section to belong to the district comprising such union or parish.

38 & 39 Vict. c. 67.

Restriction on power of Secretary of State as regards lunatics not fit for ordinary asylum. 23 & 24 Vict. c. 75.

IX. With respect to the transfer by warrant of a Secretary of State, and the removal by order of a justice under this Act, of a person from an asylum for criminal lunatics appointed by Her Majesty, in pursuance of the Criminal Lunatic Asylums Act, 1860, to an asylum within the meaning of the *Lunatic Asylums Act, 1853*, the following provisions shall have effect:

(1) The Secretary of State or justice shall be satisfied either, by a certificate from a legally qualified medical practitioner, that the said person is in such a state of insanity that he can be properly treated in an ordinary asylum, or that the committee of visitors of the asylum to which the said person is proposed to be transferred or removed consents to receive him;

(2) If the said person becomes a pauper lunatic under this Act, and the consent to receive him of the committee of visitors of the asylum is required, and is not given, he may be removed to and detained in any asylum or place in which lunatics may be detained which is willing to receive him, and the costs of his removal to and maintenance in such asylum or place shall be defrayed by the said committee of visitors;

(3) Where the said person has been transferred to any such asylum as a criminal lunatic, and the committee of visitors of the asylum satisfy a Secretary of State that the said criminal lunatic is in such a state of insanity that he cannot be properly treated in the said asylum, and request the Secretary of State to transfer him to some other asylum, the Secretary of State shall so transfer him, and the costs of that transfer shall be defrayed by the said committee of visitors;

(4) Where a pauper lunatic under this section is removed to and detained in any asylum or place in consequence of the committee of visitors of an asylum not consenting to receive him, such pauper lunatic shall be deemed to have been sent to and to be detained in the said

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Sect. 9.

Note. Sub-s. (4).

For the reference to the Lunatic Asylums Act, 1853, substitute a reference to the Lunacy Act, 1890.

Sect. 68 of the Lunatic Asylums Act, 1853, is now replaced by sects. 15, 16, 17 and 19 of the Lunacy Act, 1890.

asylum or place, in pursuance of *section sixty-eight of the Lunatic Asylums Act, 1853*; Sect. 9.

16 & 17 Vict. c. 97.

(5) Any costs directed by this section to be defrayed by a committee of visitors, shall be a simple contract debt of such committee of visitors, and shall be paid as part of the general expenses of the asylum.

Provision as to expenses of maintenance of criminal lunatic.

X.—(1) Subject as in this section mentioned, all expenses incurred under this Act in relation to a criminal lunatic while detained in an asylum, and all expenses of removing a person on his becoming under this Act a pauper lunatic to an asylum or place of confinement for lunatics in any part of the United Kingdom, shall be defrayed out of monies provided by Parliament, and the cost of maintenance of a criminal lunatic in any asylum within the meaning of the *Lunatic Asylums Act, 1853*, shall be at the same rate as if he was a lunatic sent from a union or parish situate elsewhere than in the county or borough to which the asylum belongs.

16 & 17 Vict. c. 97.

(2) Where a person, being a criminal lunatic, is absolutely discharged before the expiration of any term of penal servitude or imprisonment to which he is subject, or is conditionally discharged in pursuance of this Act, the Commissioners of Her Majesty's Treasury may from time to time contribute, out of monies provided by Parliament, such sum or sums, on the recommendation of a Secretary of State, as they from time to time think fit towards the cost of the maintenance of such person, until the expiration of the said sentence, or so long as he continues to be subject to any conditions of discharge (as the case may be).

(3) *Section one hundred and four of the Lunatic Asylums Act, 1853*, with respect to the application of the property of a lunatic for his maintenance and for the other charges in the said section mentioned, and *the other sections of the Lunatic Asylums Act, 1853*, which are ancillary to the said section one hundred and four, shall extend to a criminal lunatic wherever he may be detained, and to his property, in like manner as if

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Sect. 9. Note. Sub-s. (5).

The general expenses of an asylum are payable out of the county or borough rate, as the case may be (Lunacy Act, 1890 (53 & 54 Vict. c. 5), s. 273).

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Sect. 10. Note. Sub-s. (1).

This sub-section does not apply to the expenses in relation to a criminal lunatic who has been discharged, or whose term of imprisonment has determined, and who has been sent to an asylum by order of a justice under sect. 7, *supra*; and it renders the decision in *Reg.* v. *Mews*, 6 Q. B. D. 47, no longer applicable.

A higher rate may be fixed for the maintenance of out-county lunatics. (See Lunacy Act, 1890 (53 & 54 Vict. c. 5), s. 283 (3).)

Sub-s. (3).

Sect. 104 of the Lunatic Asylums Act, 1853, is now replaced by sects. 116, 117 and 299 of the Lunacy Act, 1890 (53 & 54 Vict. c. 5).

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the said sections were herein re-enacted and in terms made applicable thereto, and any power exerciseable by justices under the said section may, for the purposes of this section, be exercised by two justices of the county or place where such lunatic is detained.

The Lord Chancellor, or other authority having power to make orders with respect to the property of a lunatic *under sections twelve, thirteen and fourteen of the Lunacy Regulation Act, 1862*, shall, if satisfied by affidavit or otherwise that a person is or has been a criminal lunatic, and continues to be insane and to be in confinement, have power to make any such order with respect to the property of such person, and the application thereof for the maintenance or benefit of him or his family, or for carrying on his trade or business, as may be made in pursuance of the *said sections of the Lunacy Regulation Act, 1862*.

25 & 26 Vict. c. 86.

(4) When the criminal lunatic was a person removed from India in pursuance of the Lunatics Removal (India) Act, 1851, all expenses attending the removal of any such person from India, and his safe custody and maintenance, shall continue to be defrayed in the same manner as if this Act had not been passed.

14 & 15 Vict. c. 81.

Recapture of escaped lunatic, and punishment for rescuing or aiding to escape.

XI.—(1) Sections eleven and twelve of the Criminal Lunatic Asylums Act, 1860, shall apply to every asylum or place in which criminal lunatics are confined so far as regards those lunatics, and to the criminal lunatics in such asylum or place, in all respects as if such asylum or place were an asylum for criminal lunatics appointed by Her Majesty in pursuance of that Act, and any officer, servant, or other person committing any such offence as is mentioned in the said section twelve shall be liable to be convicted and punished accordingly.

(2) If a person escapes while being conveyed to an asylum or place in pursuance of this Act he may be re-taken at any time, in like manner as if he had escaped from the said asylum.

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Sect. 10.

Note.

Sub-s. (3).

The Lunacy Regulation Act, 1862, is repealed by the Lunacy Act, 1890 (53 & 54 Vict. c. 5); and an order to the effect mentioned in this sub-section must now be made under sect. 117 of the Lunacy Act, 1890.

The mother and brother of a criminal lunatic applied for an order that his property, along with some other property in which they were interested together with him, might be applied in payment of monies for which the lunatic had given security, the mother undertaking to pay his other debts. There was no reasonable prospect of his being ever released. *Held* that the application must be refused as not being for his benefit (*In re Price*, 34 Ch. D. 603; 56 L. J. Ch. 292; 56 L. T. (N. S.) 77; 35 W. R. 340).

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Sect. 11.

Note.

The sections herein referred to relate to the escape of criminal lunatics.

Sect. 12.

Treatment of imbeciles.

XII. A Secretary of State may from time to time make, and when made, revoke and vary, regulations for the treatment of persons sentenced to or ordered to be kept in penal servitude or imprisonment who appear, in accordance with the said regulations, to be from imbecility of mind either unfit for penal discipline or unfit for the same penal discipline as other prisoners.

Saving of authority of Crown to make orders.

XIII. Nothing in this Act shall restrain or affect the authority of Her Majesty, where She may so think fit, to make any order with respect to any person for whose safe custody during Her pleasure Her Majesty is by law authorized to give order.

Provision as to existing criminal lunatics.

XIV.—(1) Subject as herein-after provided, this Act shall apply to any person who at the commencement of this Act is, in pursuance of the Acts relating to criminal lunatics, detained in an asylum or place of confinement for lunatics; provided that any such person detained in pursuance of section six of the Criminal Lunatics Act, 1867, shall on the commencement of this Act be deemed to be a person who has become under this Act a pauper lunatic.

30 & 31 Vict. c. 12.

(2) An order under this Act for the detention of any person as a pauper lunatic may be made before the commencement of this Act, but shall not take effect until such commencement.

Making and execution of warrant of Secretary of State.

XV. A warrant of a Secretary of State under this Act may be under the hand of a Secretary of State or of an Under Secretary of State, and may be executed by the person to whom it is addressed, or by any constable; and such warrant when it relates to a person not in custody may be executed in like manner as if it were a warrant for the arrest of a person charged with an offence, and it shall be the duty of every constable to aid in the execution of every warrant of a Secretary of State under this Act.

Interpretation of terms.

XVI. In this Act, if not inconsistent with the context, the following words and expressions have the meanings herein-after assigned to them respectively; that is to say,

"Criminal lunatic" means any of the following persons:—

(*a.*) any person for whose safe custody during Her Majesty's pleasure Her Majesty or the Admiralty is authorized to give order; and

(*b.*) any prisoner whom a Secretary of State or the Admiralty has in pursuance of any Act of Parliament directed

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Sect. 13.

Note.

An order for safe custody may be made under the Trial of Lunatics Act, 1883 (46 & 47 Vict. c. 38).

Sect. 16.

to be removed to an asylum or other place for the reception of insane persons:

"Prison" means any prison or place of confinement to which a person may be committed whether on remand or for trial, safe custody, or punishment, or otherwise, under any other than civil process; and "prisoner" means any person so committed:

* * * * *

"Superintendent" includes any person in charge of an asylum or other place for the confinement of lunatics:

16 & 17 Vict. c. 97.
23 & 24 Vict c. 75.

"Asylum" means an asylum within the meaning of the *Lunatic Asylums Act, 1853*, and an asylum for criminal lunatics appointed by Her Majesty in pursuance of the Criminal Lunatic Asylums Act, 1860, and includes a hospital registered for the reception of lunatics, but does not include a licensed house; provided that a hospital registered as aforesaid shall not be under any obligation by virtue of this Act to receive any criminal lunatic:

[For Lunatic Asylums Act, 1853, now read Lunacy Act, 1890 (53 Vict. c. 5).]

"Costs of maintenance" include, in relation to any lunatic, the cost of the lodging, clothing, medicine, and care of such lunatic; and "expenses incurred under this Act in relation to a criminal lunatic" shall be deemed to include the costs of his maintenance as so defined.

[Sect. 17. *Repeal:* Repealed by the S. L. R. Act, 1898.]

Commencement and extent of Act.

XVIII. . . . Save as in this Act otherwise expressly provided, this Act shall not extend to Scotland or Ireland.

[The schedules are repealed by the S. L. R. Act, 1898.]

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# THE MUNICIPAL ELECTIONS (CORRUPT AND ILLEGAL PRACTICES) ACT, 1884.

47 & 48 VICT. CHAP. 70.

An Act for the better Prevention of Corrupt and Illegal Practices at Municipal and other Elections.

[14th August, 1884.]

[This Act is here annotated only so far as to show its applicability to the election of guardians.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and

Sect. 18. Note.

Words relating to the commencement of the Act repealed by the S. L. R. Act, 1898.

temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

Sect. 1.

Short title.

I. This Act may be cited as the Municipal Elections (Corrupt and Illegal Practices) Act, 1884.

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Sect. 1.

Note.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 48 (3), at every election regulated by rules framed under that Act the poll shall be taken by ballot, and this Act (47 & 48 Vict. c. 70) shall (*inter alia*), subject to adaptations, alterations, and exceptions made by such rules, apply in like manner as in the case of a municipal election, provided that sect. 37 hereof shall apply as if the election were an election mentioned in the first schedule hereto. And by sect. 20 (5) of the Local Government Act, 1894, the election of guardians is to be conducted according to rules framed under that Act by the Local Government Board. The rules so framed, which are now in force, are contained in three General Orders styled respectively "Guardians (Outside London) Election Order, 1898," dated January 1st, 1898, and applicable to the election of guardians in urban districts outside London; "Guardians (London) Election Order, 1898," dated January 21st, 1898, and applicable to the election of guardians in London; and "Rural District Councillors Election Order, 1898," dated January 1st, 1898, and applicable to the election of district councillors who will be the guardians in rural districts for the parishes or areas for which they are elected district councillors. The first two of these orders contain a rule adapting this Act for the purpose of the election of guardians as follows:—

*Adaptation of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884.*

In the application of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, the following adaptations and alterations shall have effect:

(1) Such application shall be subject to the provisions of this order.

(2) The expressions "parish or united parishes," "returning officer at election of guardians," and "poor rate of the parish or poor rates of the united parishes" shall be deemed to be substituted in the Act for "borough," "town clerk," and "borough fund or rate," respectively.

(3) The expression "corporate office" in the Act shall mean "the office of guardian," and "a municipal election" shall mean "an election of one or more guardians;" and the expressions "municipal election court," "municipal election list," and "municipal election petition" shall be construed accordingly.

(4) So much of section 13 of the Act as permits one polling agent to be employed in each polling station shall not apply, except so far as the employment of polling agents is permitted by rule 17 of this order.

(5) An election petition complaining of the election on the ground of an illegal practice may be presented at any time within six weeks after the day of election.

Sect. 2.

*Corrupt Practices.*

Definition and punishment of corrupt practice at municipal election.

II.—(1) The expression "corrupt practice" in this Act means any of the following offences, namely, treating, undue influence, bribery, and personation as defined by the enactments set forth in Part One of the third schedule to this Act, and aiding, abetting, counselling, and procuring the commission of the offence of personation.

(2) A person who commits any corrupt practice in reference to a *municipal election* shall be guilty of the like offence, and shall on conviction be liable to the like punishment, and subject to the like incapacities, as if the corrupt practice had been committed in reference to a Parliamentary election.

Incapacity of candidate reported guilty of corrupt practice.

45 & 46 Vict. c. 50.

III.—(1) Where upon a trial of an election petition respecting a *municipal election* for a *borough* or ward of a *borough* it is found by the report of an election court made in pursuance of section ninety-three of the Municipal Corporations Act, 1882, that any corrupt practice, other than treating and undue influence, has been proved to have been committed in reference to such election by or with the knowledge and

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Sect. 1.

Note.

(6) A petition relating to the election of a guardian for a parish may be tried at any place within the poor law union in which the parish is situate.

(7) In section 34 of the Act "burgess roll" shall mean "register of parochial electors."

(8) Section 37 of the Act shall be read as if a reference to an election of guardians was substituted for a reference to any of the elections mentioned in the first schedule to the Act.

In the third order, which deals with the election of rural district councillors, who will be guardians for the areas for which they are elected councillors, the words "rural district councillors" is substituted for the word "guardian" in the above rule.

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Sect. 2.

Note.

For the punishment of persons convicted on indictment of corrupt practices, see the Corrupt and Illegal Practices Prevention Act, 1883 (46 & 47 Vict. c. 51), s. 6.

For the form of indictment for corrupt practices, see *Reg.* v. *Shoulger*, 17 Q. B. D. 327; 55 L. J. M. C. 137; 55 L. T. 122; 34 W. R. 719.

For meaning of "municipal election" as applicable to an election of guardians, see note to sect. 1, *supra*.

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Sect. 3.

Note.

The election of a guardian may now be questioned by an election petition on the grounds appearing in sect. 87 of the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), which is made applicable by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 48 (3).

In this section as applicable to an election of guardians, see note to sect. 1, *ante*, for the meanings to be attached respectively to the words in italics.

Sect. 3.

consent of any candidate at such election, or that the offence of treating or undue influence has been proved to have been committed in reference to such election by any candidate at such election, that candidate shall not be capable of ever holding a *corporate office* in the said *borough*, and if he has been elected his election shall be void; and he shall further be subject to the same incapacities as if at the date of the said report he had been convicted of a corrupt practice.

(2) Upon the trial of an election petition respecting a *municipal election* for a *borough* or ward of a *borough* in which a charge is made of any corrupt practice having been committed in reference to such election, the election court shall report in writing to the High Court whether any of the candidates at such election has been guilty by his agents of any corrupt practice in reference to such election, and if the report is that any candidate at such election has been guilty by his agents of a corrupt practice in reference to such election, that candidate shall not be capable of being elected to or holding any *corporate office* in the said *borough*, during a period of three years from the date of the report, and if he has been elected, his election shall be void.

*Illegal Practices.*

Certain expenditure to be illegal.

IV.—(1) No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at a *municipal election*, be made—

(*a.*) On account of the conveyance of electors to or from the poll whether for the hiring of horses or carriages, or for railway fares, or otherwise; or

(*b.*) To an elector on account of the use of any house, land, building, or premises for the exhibition of any address, bill, or notice, or on account of the exhibition of any address, bill, or notice; or

(*c.*) On account of any committee room in excess of the number allowed by this Act (that is to say), if the election is for a *borough* one committee room for the *borough*, and if the election is for a ward one committee room for the ward, and if the number of electors in such *borough* or ward exceeds two thousand, one additional committee room for every two thousand electors and incomplete part of two thousand electors, over and above the said two thousand.

(2) Subject to such exception as may be allowed in pursuance of this Act, if any payment or contract for payment is knowingly made in contravention of this section either before,

Sect. 4.

In this section as applicable to an election of guardians, see note to sect. 1, *supra*, for the meanings to be attached respectively to the words in italics.

Note.

The exception referred to in sub-sect. (2) is contained in sects. 19—21, *infra*.

Sub-s. (1).

Sub-s. (2).

Sect. 4.

during, or after a *municipal election*, the person making such payment or contract shall be guilty of an illegal practice, and any person receiving such payment or being a party to any such contract, knowing the same to be in contravention of this Act, shall also be guilty of an illegal practice.

(3) Provided that where it is the ordinary business of an elector as an advertising agent to exhibit for payment bills and advertisements, a payment to or contract with such elector if made in the ordinary course of business, shall not be deemed to be an illegal practice within the meaning of this section.

[Sect. 5. Expense in excess of maximum to be illegal practice. By sect. 37, *infra*, this section does not apply to an election of guardians.]

Voting by prohibited persons and publishing of false statements of withdrawal to be illegal.

VI.—(1) If any person votes or induces or procures any person to vote at a *municipal election*, knowing that he or such person is prohibited, whether by this or any other Act, from voting at such election, he shall be guilty of an illegal practice.

(2) Any person who before or during a *municipal election* knowingly publishes a false statement of the withdrawal of a candidate at such election for the purpose of promoting or procuring the election of another candidate shall be guilty of an illegal practice.

(3) Provided that a candidate shall not be liable, nor shall his election be avoided, for any illegal practice under this section committed without his knowledge and consent.

Punishment on conviction of illegal practice.

VII. A person guilty of an illegal practice in reference to a *municipal election*, shall on summary conviction be liable to a

Sect. 6. Note.

As to persons prohibited from voting by this Act, see sects. 7, 8, 18, 22, 23, and schedule 3, part 2, *infra*.

Persons who have been in receipt of relief on any day during the year last preceding an election are prohibited from voting at such election by the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 14. The receipt of medical relief disqualifies at an election of guardians. (See the Medical Relief Disqualification Removal Act, 1885 (48 & 49 Vict. c. 46).)

A convicted felon is disqualified to vote at any election until he has undergone his punishment or has been pardoned (Forfeiture Act, 1870 (33 & 34 Vict. c. 23), s. 1). Aliens are also disqualified by the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 9 (3), extended by the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 2.

For meaning of "municipal election" as applied to guardians, see note to sect. 1, *supra*.

ect. 7. Note.

In this section as applicable to an election of guardians, see note to sect. 1, *supra*, for the meanings to be attached to the words in italics. As to what is a public office, see sect. 34, *infra*.

fine not exceeding one hundred pounds and be incapable during a period of five years from the date of his conviction of being registered as an elector or voting at any election (whether it be a Parliamentary election or an election for a public office within the meaning of this Act) held for or within the *borough* in which the illegal practice has been committed. Sect. 7.

Incapacity of candidate reported guilty of illegal practice. 45 & 46 Vict. c. 50.

VIII.—(1) An illegal practice within the meaning of this Act shall be deemed to be an offence against Part Four of the Municipal Corporations Act, 1882, and a petition alleging such illegal practice may be presented and tried accordingly.

(2) Upon the trial of an election petition respecting a *municipal election* for a *borough* or ward of a borough in which a charge is made of any illegal practice having been committed in reference to such election, the election court shall report in writing to the High Court whether any of the candidates at such election has been guilty by himself or his agents of an illegal practice in reference to such election, and if the report is that a candidate at such election has been guilty by himself or his agents of an illegal practice in reference to such election, the candidate shall not be capable of being elected to or of holding any *corporate office* in the said *borough* during the period for which he was elected to serve, or for which if elected he might have served, and if he was elected, his election shall be void; and, if the report is that such candidate has himself been guilty of such illegal practice, he shall also be subject to the same incapacities as if at the date of the report he had been convicted of such illegal practice.

*Illegal Payment, Employment, and Hiring.*

Providing of money for illegal practice or payment to be illegal payment. Sect. 8.

IX. Where a person knowingly provides money for any payment which is contrary to the provisions of this Act, or for any expenses incurred in excess of any maximum amount allowed by this Act, or for replacing any money expended in any such

Note.

Part IV. of the Municipal Corporations Act, 1882, is applied to the elections of guardians by the Local Government Act, 1894, s. 48 (3).

In this section as applicable to an election of guardians, see note to sect. 1, *supra*, for the meanings to be attached to the words in italics.

Sect. 9.

Note.

The provisions of the Act as to maximum expenses do not apply to the elections of guardians. (See sect. 37, *infra*.)

The exception referred to in the section is that provided for by sects. 19—21, *infra*.

Money paid for the employment of persons to keep order at meetings is an illegal payment (*Packard* v. *Collings*, 54 L. T. (N. S.) 619). Gratuitous refreshments to workers renders their employment illegal (*Barrow Election Petition*, *ib.* 618).

Sect. 9.

payment, except where the same may have been previously allowed in pursuance of this Act to be an exception, such person shall be guilty of illegal payment.

Employment of hackney carriages, or of carriages and horses kept for hire.

X.—(1) A person shall not let, lend, or employ for the purpose of the conveyance of electors to or from the poll at a *municipal election*, any public stage or hackney carriage, or any horse or other animal kept or used for drawing the same, or any carriage, horse, or other animal which he keeps or uses for the purpose of letting out for hire, and if he lets, lends, or employs such carriage, horse, or other animal, knowing that it is intended to be used for the purpose of the conveyance of electors to or from the poll, he shall be guilty of illegal hiring.

(2) A person shall not hire, borrow, or use for the purpose of the conveyance of electors to or from the poll any carriage, horse, or other animal which he knows the owner thereof is prohibited by this section to let, lend, or employ for that purpose, and if he does so he shall be guilty of illegal hiring.

(3) Nothing in this Act shall prevent a carriage, horse, or other animal being let to or hired, employed, or used by an elector, or several electors at their joint cost, for the purpose of conveying him or them to or from the poll.

(4) No person shall be liable to pay any duty or to take out a licence for any carriage by reason only of such carriage being used without payment or promise of payment for the conveyance of electors to or from the poll at an election.

Corrupt withdrawal from a candidature.

XI. Any person who corruptly induces or procures any other person to withdraw from being a candidate at a *municipal election*, in consideration of any payment or promise of payment, shall be guilty of illegal payment, and any person withdrawing in pursuance of such inducement or procurement shall also be guilty of illegal payment.

Certain expenditure to be illegal payment.

XII.—(1) No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at a *municipal election*, be made on account of bands of music, torches, flags, banners, cockades, ribbons, or other marks of distinction.

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Sects. 10 & 11.

Note.

For the meaning of "municipal election" as applicable to an election of guardians, see note to sect. 1, *supra*.

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Sect. 12.

Note.

For the meaning of "municipal election" as applicable to an election of guardians, see note to sect. 1, *supra*.

The exception referred to in sub-sect. (2) of this section is that provided for by sects. 19—21, *infra*.

Sect. 12.

(2) Subject to such exception as may be allowed in pursuance of this Act, if any payment or contract for payment is made in contravention of this section, either before, during, or after an election, the person making such payment shall be guilty of illegal payment, and any person being a party to any such contract or receiving such payment shall also be guilty of illegal payment if he knew that the same was made contrary to law.

Certain employment to be illegal.

XIII.—(1) No person shall, for the purpose of promoting or procuring the election of a candidate at a *municipal election*, be engaged or employed for payment or promise of payment for any purpose or in any capacity whatever, except as follows (that is to say),

(*a.*) A number of persons may be employed, not exceeding two for a *borough* or ward, and if the number of electors in such *borough* or ward exceeds two thousand one additional person may be employed for every thousand electors and incomplete part of a thousand electors over and above the said two thousand, and such persons may be employed as clerks and messengers, or in either capacity ; and

(*b.*) One polling agent may be employed in each polling station :

Provided that this section shall not apply to any engagement or employment for carrying into effect a contract *bonâ fide* made with any person in the ordinary course of business.

(2) Subject to such exception as may be allowed in pursuance of this Act, if any person is engaged or employed in contravention of this section, either before, during, or after an election, the person engaging or employing him shall be guilty of illegal

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Sect. 13.

Note. Sub-s. (1).

By the rule adapting this Act to the election of guardians set out in the note to sect. 1, *supra*, it is provided that so much of this section as permits one polling agent to be employed in each polling station shall not apply, except so far as the employment of polling agents is permitted by rule 17 of the order. The rule 17 there referred to is as follows :—

"If there are only two candidates, each of them may, in writing, appoint a polling agent for each polling station, who may be paid or unpaid. If there are more than two candidates, any number of them, being not less than one-third of the whole number of candidates, may, in writing, appoint one polling agent for each polling station, who may be paid or unpaid. Any such appointment shall be delivered at the office of the returning officer not less than two clear days before the day of the poll. Except as aforesaid, no polling agent, whether paid or unpaid, shall be appointed for the purposes of the election."

In this section as applicable to an election of guardians, see note to sect. 1, *supra*, for the meanings to be attached to the words in italics.

Sect. 13.

employment, and the person so engaged or employed shall also be guilty of illegal employment if he knew that he was engaged or employed in contravention of this Act.

(3) A person legally employed for payment under this section may or may not be an elector, but may not vote.

Name and address of printer on placards.

XIV. Every bill, placard, or poster having reference to a *municipal election* shall bear upon the face thereof the name and address of the printer and publisher thereof; and any person printing, publishing, or posting, or causing to be printed, published, or posted, any such bill, placard, or poster as aforesaid, which fails to bear upon the face thereof the name and address of the printer and publisher, shall, if he is a candidate, be guilty of an illegal practice, and if he is not the candidate, shall be liable on summary conviction to a fine not exceeding one hundred pounds.

Saving for creditors.

XV. The provisions of this Act prohibiting certain payments and contracts for payments, and the payment of any sum, and

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Sect. 14.

Note.

For the meaning of "municipal election" as applicable to an election of guardians, see note to sect. 1, *supra*.

The appellant was a candidate for election to a local board. The respondent received from his own servant at his residence a printed address and letter having reference to the election, and purporting to be signed by the appellant, but having no printer's name thereon. This document was printed for publication by instructions conveyed to the printer in a letter from the appellant's brother, who resided with him. The printer debited the defendant with the cost of printing, but was not paid. It was held on these facts that there was no evidence that the appellant had "printed or caused to be printed" the document in question. Placards or posters, also without the printer's name and address, printed by the instructions of one E., who was advertised in a local newspaper as chairman of a committee for promoting the election of the appellant, and who sent the copy to the printer, were proved to have been posted about the district at E.'s expense. The court doubted whether this was evidence of the printing and posting by an agent of the appellant; but the justices having convicted the appellant in one penalty for both offences, and the conviction being bad as to the first, held that it was bad altogether (*Bettesworth* v. *Allingham*, 16 Q. B. D. 44; 34 W. R. 296; 50 J. P. 55).

In the above case the court seemed to assume that a circular containing an election address was a bill, placard, or poster within the meaning of the section. In a series of cases which came before the courts subsequently, it was held that such a circular was not a bill, placard or poster. (See 5 T. L. R., pp. 160, 170.)

A person other than a candidate is not by this section declared to be guilty of an illegal practice, payment, employment, or hiring. He cannot, therefore, be excused under sect. 20 (*Ex parte Lenanton*, 53 J. P. 263).

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Sect. 15.

Note.

The provisions of the Act as to maximum expenses do not apply to the elections of guardians. (See sect. 37, *infra*.)

the incurring of any expense, in excess of a certain maximum, shall not affect the right of any creditor who, when the contract was made or the expense was incurred, was ignorant of the same being in contravention of this Act. Sect. 15.

Use of certain premises for committee rooms or meetings to be illegal hiring.

XVI.—(1) (*a.*) Any premises, which are licensed for the sale of any intoxicating liquor for consumption on or off the premises, or on which refreshment of any kind (whether food or drink) is ordinarily sold for consumption on the premises, or

(*b.*) Any premises where any intoxicating liquor is supplied to members of a club, society, or association, or any part of any such premises,

shall not, for the purpose of promoting or procuring the election of a candidate at a *municipal election*, be used either as a committee room or for holding a meeting, and if any person hires or uses any such premises or any part thereof in contravention of this section he shall be guilty of illegal hiring, and the person letting or permitting the use of such premises or part thereof, if he knew it was intended to use the same, in contravention of this section, shall also be guilty of illegal hiring.

(2) Provided that nothing in this section shall apply to any part of such premises which is ordinarily let for the purpose of chambers or offices or the holding of public meetings or of arbitrations, if such part has a separate entrance and no direct communication with any part of the premises on which any intoxicating liquor or refreshment is sold or supplied as aforesaid.

Punishment of illegal payment, employment or hiring.

XVII.—(1) A person guilty of an offence of illegal payment, employment, or hiring shall, on summary conviction, be liable to a fine not exceeding one hundred pounds.

(2) Where an offence of illegal payment, employment, or hiring is committed by a candidate, or with his knowledge and consent, such candidate shall be guilty of an illegal practice.

Avoidance of election for extensive illegal practices, &c.

XVIII. Where upon the trial of an election petition respecting a *municipal election* for a *borough* or ward of a *borough* it is

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For the meaning of "municipal election" as applicable to an election of guardians, see note to sect. 1, *supra*. Sect. 16.

A place where sandwiches are sold for consumption at the counter was in an unreported case which came before the court in 1889 held to be within this provision; but the section does not apply to a club unless liquor is supplied in it. Note. Sub-s. (1).

By sect. 36 (1) (*g*), *infra*, nothing in this section makes it unlawful to hold a meeting to promote the election of a guardian on any licensed or other premises not situate in an urban district or in the metropolis. Sub-s. (2).

In this section as applicable to an election of guardians, see note to sect. 1, *supra*, for the meanings of the words in italics. Sect. 18. Note.

Sect. 18.

found by the election court that illegal practices or offences of illegal payment, employment, or hiring, committed in reference to such election for the purpose of promoting the election of a candidate at that election, have so extensively prevailed that they may be reasonably supposed to have affected the result of that election, the election court shall report such finding to the High Court, and the election of such candidate, if he has been elected, shall be void, and he shall not, during the period for which he was elected to serve, or for which, if elected, he might have served, be capable of being elected to or holding any *corporate office* in the said *borough*.

*Excuse and Exception for Corrupt or Illegal Practice or Illegal Payment, Employment, or Hiring.*

Report exonerating candidate in certain cases of corrupt and illegal practice by agents.

XIX. Where, upon the trial of an election petition respecting a *municipal election*, the election court reports that a candidate at such election has been guilty by his agents of the offence of treating and undue influence, and illegal practice, or of any of such offences, in reference to such election, and the election court further report that the candidate has proved to the court—

(*a.*) That no corrupt or illegal practice was committed at such election by the candidate or with his knowledge or consent, and the offences mentioned in the said report were committed without the sanction or connivance of such candidate; and

(*b.*) That all reasonable means for preventing the commission of corrupt and illegal practices at such election were taken by and on behalf of the candidate; and

(*c.*) That the offences mentioned in the said report were of a trivial, unimportant, and limited character; and

(*d.*) That in all other respects the election was free from any corrupt or illegal practice on the part of such candidate and of his agents;

then the election of such candidate shall not, by reason of the offences mentioned in such report, be void, nor shall the candidate be subject to any incapacity under this Act.

Power of High Court and election court to except innocent act from being illegal practice, &c.

XX. Where, on application made, it is shown to the High Court or to a *municipal election court* by such evidence as seems to the court sufficient :—

(*a.*) That any act or omission of a candidate at a *municipal election* for a *borough* or ward of a *borough*, or of any agent or other person, would, by reason of being in contravention of any of the provisions of this Act, be

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Sect. 20.

Note.

In this section as applicable to an election of guardians, see note to sect. 1, *supra*, for the meanings of the words in italics.

Relief may be given under this section by the High Court, on application for that purpose, or by an election court. As to the

Sect. 20.

but for this section an illegal practice, payment, employment, or hiring; and

(*b.*) That such act or omission arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith; and

(*c.*) That such notice of the application has been given in the said *borough* as to the court seems fit;

and under the circumstances it seems to the court to be just that the said candidate, agent, and person, or any of them,

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Sect. 20.

Note.

constitution of the election court, see sect. 92 of the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50).

From the refusal of the High Court to grant relief under this section appeal lies to the Court of Appeal. (See *Ex parte Walker*, 22 Q. B. D. 384; 58 L. J. Q. B. 190; 37 W. R. 293; 53 J. P. 261. See also *Ex parte Thomas*, 60 L. T. (N. S.) 728; 5 T. L. R. 234; *Ex parte Birtwhistle*, *ib.* 321.)

In order to support an application under this section, it will not be sufficient that notice of intention to make the application has been advertised in the local papers, but such notice should be published in such a manner as will ensure a reasonable certainty that persons interested had notice; and it will also be insufficient in the affidavits upon which the application is made merely to state that the act in respect of which the relief is sought arose from inadvertence, and not from any want of good faith, without showing some reasonable excuse for such inadvertence (*Ex parte Perry*, 48 J. P. 824). Notice need not, however, be given to the Attorney-General (*Ex parte Lenanton*, 53 J. P. 263).

For examples of cases in respect of which applications for relief have been made under this section, see *Ex parte Clark*, 52 L. T. (N. S.) 260, where placards had been issued without the printer's name; *South Shropshire Election*, 2 T. L. R. 347, where payments were made after the proper time (and see *Ipswich Election Petition*, 3 T. L. R. 397); *Ex parte Robson*, 18 Q. B. D. 336; 55 L. T. (N. S.) 813; 35 W. R. 290; 51 J. P. 199, where a candidate was allowed to make a return and declaration under sect. 21 after the prescribed time; *Ex parte Matthews*, 2 T. L. R. 548, where a candidate had acted as his own agent and had omitted to make a declaration of expenses. In the case of *Essex (South-West) Election*, 2 T. L. R. 388, where a person voted, and afterwards accepted payment for services rendered as an agent, the court refused to relieve him.

Where a person had obtained an excuse for a late return of expenses, and subsequently on the same day, but after the order had been drawn up, a voter appeared to oppose the application, it was held that the application of the voter must be dismissed in the absence of any sufficient explanation of the delay (*Wigan Election*, 2 T. L. R. 159).

If the application is made by a person against whom a petition is pending the court will order the application to stand over till after the trial of the petition (*Ex parte Wilks*, 15 Q. B. D. 114; 55 L. J. Q. B. 576; 34 W. R. 273; 50 J. P. 487; *Ex parte Evans*, 5 T. L. R. 207). But this course will not be followed merely because a petition is threatened (*Ex parte Stephens*, 5 T. L. R. 203).

Sect. 20.

should not be subject to any of the consequences under this Act of the said act or omission, the court may make an order allowing such act or omission to be an exception from the provisions of this Act which would otherwise make the same an illegal practice, payment, employment, or hiring, and thereupon such candidate, agent, or person shall not be subject to any of the consequences under this Act of the said act or omission.

[Sect. 21. Sending in claims and making payments for election expenses: This section does not apply to elections of guardians by sect. 37, *infra*.]

*Disqualification of Electors.*

Prohibition of persons guilty of offences from voting.

XXII. Every person guilty of a corrupt or illegal practice or of illegal employment, payment, or hiring at a *municipal election* is prohibited from voting at such election, and if any such person votes his vote shall be void, and shall be struck off on a scrutiny.

Application of sects. 37 and 38 of 46 & 47 Vict. c. 51.

XXIII. So much of sections thirty-seven and thirty-eight of the Corrupt and Illegal Practices Prevention Act, 1883, as is set forth in Part Two of the third schedule to this Act, shall apply as part of this Act.

[Sect. 24. List in burgess roll of persons incapacitated for voting by corrupt or illegal practices: This section does not apply to elections of guardians. Sect. 36 (1) (*c*), *infra*, provides that no corrupt and illegal practices list shall be made for any of the elections mentioned in the first schedule.]

*Proceedings on Election Petitions.*

Petition for illegal practice.

XXV.—(1) A *municipal election petition* complaining of the election on the ground of an illegal practice may be presented at any time before the expiration of fourteen days after the day on which the town clerk receives the return and declaration respecting election expenses by the candidate to whose election the petition relates, or where there is an authorized excuse for

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Sect. 22. Note.

For the meaning of "municipal election" as applicable to an election of guardians, see note to sect. 1, *supra*.

Sect. 25. Note.

The time for presenting a petition limited by the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 88 (4), is twenty-one days.

For the application of this provision to the elections of guardians see note to sect. 1, *supra*.

By the rule adapting this Act to the elections of guardians an election petition complaining of the election on the ground of an illegal practice may be presented at any time within six weeks after the date of election. (See note to sect. 1, *supra*.)

failing to make the return and declaration then within the like time after the date of the allowance of the excuse. Sect. 25.

(2) A *municipal election petition*, complaining of the election on the ground of an illegal practice, and specifically alleging a payment of money or other act made or done since the election by the candidate elected at such election, or by an agent of the candidate, or with the privity of the candidate, in pursuance or in furtherance of such illegal practice, may be presented at any time within twenty-eight days after the date of such payment or act, whether or not any other petition against that person has been previously presented or tried. Time for presentation of petition alleging illegal practices.

(3) Any election petition presented within the time limited by the Municipal Corporations Act, 1882, may, for the purpose of complaining of the election upon an allegation of an illegal practice, be amended with the leave of the High Court within the time within which a petition complaining of the election on the ground of that illegal practice can, under this section, be presented. 45 & 46 Vict. c. 50.

(4) This section shall apply notwithstanding the illegal practice is also a corrupt practice.

XXVI.—(1) Before leave for the withdrawal of a *municipal election petition* is granted, there shall be produced affidavits by all the parties to the petition and their solicitors, but the High Court may on cause shown dispense with the affidavit of any particular person if it seems to the court on special grounds to be just so to do. Withdrawal of election petition.

(2) Each affidavit shall state that, to the best of the deponent's knowledge and belief, no agreement or terms of any kind whatsoever has or have been made, and no undertaking has been entered into, in relation to the withdrawal of the petition; but if any lawful agreement has been made with respect to the withdrawal of the petition, the affidavit shall set forth that agreement, and shall make the foregoing statement subject to what appears from the affidavit.

(3) The affidavits of the applicant and his solicitor shall further state the ground on which the petition is sought to be withdrawn.

(4) If any person makes any agreement or terms, or enters into any undertaking, in relation to the withdrawal of an election petition, and such agreement, terms, or undertaking is or are for the withdrawal of the election petition in consideration of any payment, or in consideration that the seat shall at any time be vacated, or in consideration of the withdrawal of

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For the meaning of "municipal election petition" as applicable to the election of guardians, see note to sect. 1, *supra*. Sect. 26.

For the procedure for withdrawal of an election petition, see the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 95. Note. Sub-s. (1).

Sect. 26.

any other election petition, or is or are (whether lawful or unlawful) not mentioned in the aforesaid affidavits, he shall be guilty of a misdemeanor, and shall be liable on conviction on indictment to imprisonment for a term not exceeding twelve months, and to a fine not exceeding two hundred pounds.

(5) Copies of the said affidavits shall be delivered to the Director of Public Prosecutions a reasonable time before the application for the withdrawal is heard, and the court may hear the Director of Public Prosecutions or his assistant or other representative (appointed with the approval of the Attorney-General), in opposition to the allowance of the withdrawal of the petition, and shall have power to receive the evidence on oath of any person or persons whose evidence the Director of Public Prosecutions or his assistant, or other representative, may consider material.

(6) Where in the opinion of the court the proposed withdrawal of a petition was the result of any agreement, terms, or undertaking prohibited by this section, the court shall have the same power with respect to the security as under section ninety-five of the Municipal Corporations Act, 1882, where the withdrawal is induced by a corrupt consideration.

45 & 46 Vict. c. 50.

(7) In every case of the withdrawal of an election petition, by leave of the election court such court shall report in writing to the High Court whether, in the opinion of such election court, the withdrawal of such petition was the result of any agreement, terms, or undertaking, or was in consideration of any payment, or in consideration that the seat should at any time be vacated, or in consideration of the withdrawal of any other election petition, or for any other consideration, and if so, shall state the circumstances attending the withdrawal.

(8) Where more than one solicitor is concerned for the petitioner or respondent, whether as agent for another solicitor or otherwise, the affidavit shall be made by all such solicitors.

Sect. 27.

Continuation of trial of election petition.

XXVII. The trial of every *municipal election petition* shall, so far as is practicable consistently with the interests of justice in respect of such trial, be continued de die in diem on every lawful day until its conclusion.

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Sect. 26.

Note.

Sub-s. (5).

The Solicitor to the Treasury is now the Director of Public Prosecutions. (See Prosecution of Offences Act, 1884 (47 & 48 Vict. c. 58).)

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Sect. 27.

Note.

For the meaning of municipal election petition as applicable to an election of guardians, see note to sect. 1, *supra*.

As to the adjournment of the trial, see the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 93 (11).

Sect. 28.

Attendance of Director of Public Prosecutions on trial of election petition, and prosecution by him of offenders.

XXVIII.—(1) On every trial of a *municipal election petition* the Director of Public Prosecutions shall by himself or by his assistant, or by such representative as herein-after mentioned, attend at the trial, and it shall be the duty of such director to obey any directions given to him by the election court with respect to the summoning and examination of any witness to give evidence on such trial, and with respect to the prosecution by him of offenders, and with respect to any person to whom notice is given to attend with a view to report him as guilty of any corrupt or illegal practice.

(2) It shall also be the duty of such director, without any direction from the election court, if it appears to him that any person is able to give material evidence as to the subject of the trial, to cause such person to attend the trial, and with the leave of the court to examine such person as a witness.

(3) It shall also be the duty of the said director, without any direction from the election court, if he thinks it expedient in the interests of justice so to do, to prosecute, either before the said court or before any other competent court, any person who has not received a certificate of indemnity and who appears to him to have been guilty of a corrupt or illegal practice at a municipal election.

(4) Where a person is prosecuted before an election court for any corrupt or illegal practice, and such person appears before the court, the court shall proceed to try him summarily for the said offence, and such person, if convicted thereof upon such trial, shall be subject to the same incapacities as he is subject to under this or any other Act, upon conviction, whether on indictment or in any other proceeding for the said offence; and further, may be adjudged by the court, if the offence is a corrupt practice, to be imprisoned, with or without hard labour, for a term not exceeding six months, or to pay a fine not exceeding two hundred pounds, and if the offence is an illegal practice, to pay such fine as is fixed by this Act for the offence:

Provided that, in the case of a corrupt practice, the court, before proceeding to try summarily any person, shall give such person the option of being tried by a jury.

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Sect. 28.

Note.

For the meaning of the words in italics as applicable to an election of guardians, see note to sect. 1, *supra*.

Sub-s. (1).

The Solicitor to the Treasury is now the Director of Public Prosecutions. (See the Prosecution of Offences Act, 1884 (47 & 48 Vict. c. 58).)

Sub-s. (3).

As to the certificate of indemnity, see the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 92.

Sect. 28.

(5) Where a person is so prosecuted for any such offence, and either he elects to be tried by a jury or he does not appear before the court, or the court thinks it in the interests of justice expedient that he should be tried before some other court, the court, if of opinion that the evidence is sufficient to put the said person upon his trial for the offence, shall order such person to be prosecuted on indictment or before a court of summary jurisdiction, as the case may require, for the said offence; and in either case may order him to be prosecuted before such court as may be named in the order; and for all purposes preliminary and of and incidental to such prosecution the offence shall be deemed to have been committed within the jurisdiction of the court so named.

(6) Upon such order being made,

(*a.*) if the accused person is present before the court, and the offence is an indictable offence, the court shall commit him to take his trial, or cause him to give bail to appear and take his trial for the said offence; and

(*b.*) if the accused person is present before the court, and the offence is not an indictable offence, the court shall order him to be brought before the court of summary jurisdiction before whom he is to be prosecuted, or cause him to give bail to appear before that court; and

(*c.*) if the accused person is not present before the court, the court shall as circumstances require issue a summons for his attendance, or a warrant to apprehend him and bring him before a court of summary jurisdiction, and that court, if the offence is an indictable offence, shall, on proof only of the summons or warrant and the identity of the accused, commit him to take his trial, or cause him to give bail to appear and take his trial for the said offence, or if the offence is punishable on summary conviction, shall proceed to hear the case, or if such court be not the court before whom he is directed to be prosecuted shall order him to be brought before that court.

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Sect. 28.

Note.

Sub-s. (5).

The evidence which is to satisfy the court before it makes the order means the evidence given during the trial of the petition, and, therefore, a commissioner for the trial of municipal election petitions acted within his jurisdiction in ordering the prosecution of a person to whom he had refused a certificate of indemnity, and who did not appear, without re-hearing the evidence affecting him, and also acted within his jurisdiction in issuing a summons under sub-sect. (6) of this section, for his attendance before a court of summary jurisdiction for the purpose of being formally committed for trial (*Reg.* v. *Shellard*, 23 Q. B. D. 273; 58 L. J. M. C. 142; 61 L. T. (N. S.) 120; 37 W. R. 706; 53 J. P. 821).

(7) Any order or act of an election court under this section shall not be subject to be discharged or varied under sub-section six of section ninety-two of the Municipal Corporations Act, 1882. Sect. 28. 45 & 46 Vict. c. 50.

(8) The Director of Public Prosecutions may nominate, with the approval of the Attorney-General, any barristers or solicitors of not less than ten years standing, one of whom shall, when required, act as the representative for the purposes of this section of such director, and when so acting shall receive such remuneration as the Treasury may approve. There shall be allowed to the director and his assistant or representative, for the purposes of this section, such allowance for expenses as the Treasury may approve.

(9) The costs incurred in defraying the expenses of the Director of Public Prosecutions under this section (including the remuneration of his representatives) shall, in the first instance, be paid by the Treasury, and so far as they are not in the case of any prosecution paid by the defendant, shall be deemed to be expenses of the election court, and shall be paid as the expenses of that court are directed by section one hundred and one of the Municipal Corporations Act, 1882, to be paid; but if for any reasonable cause it seems just to the court so to do, the court shall order all or part of the said costs to be repaid to the Treasury by the parties to the petition, or such of them as the court may direct. 45 & 46 Vict. c. 50.

XXIX.—(1) Where upon the trial of a *municipal election petition* it appears to the election court that a corrupt practice has not been proved to have been committed in reference to the election by or with the knowledge and consent of the respondent to the petition, and that such respondent took all reasonable means to prevent corrupt practices being committed on his behalf, the court may make one or more orders with respect to the payment either of the whole or such part of Power to election court to order payment by borough or individual of costs of election petition.

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If a petition is utterly unfounded the petitioner may be ordered to pay the costs of the Director of Public Prosecutions (*Kennington Election Petition*, 54 L. T. (N. S.) 628). But the provision in the text applies only to the trial of a petition. The costs of the Public Prosecutor cannot be ordered to be paid where the petition is withdrawn (*Devonport Election Petition*, 54 L. T. (N. S.) 733; 50 J. P. 135). Sect. 28. Note. Sub-s. (9).

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For the meaning of the words in italics as applicable to an election of guardians see note to sect. 1, *supra*. Sect. 29.

In elections of guardians the costs may be ordered to be paid out of the poor rates. (See sects. 32, 36, *infra*.) Note. Sub-s. (1).

Sect. 29.

the costs of the petition as the court may thing right as follows :—

(*a.*) if it appears to the court that corrupt practices extensively prevailed in reference to the said election, the court may order the whole or part of the costs to be paid by the borough ; and

(*b.*) if it appears to the court that any person or persons is or are proved, whether by providing money or otherwise, to have been extensively engaged in corrupt practices, or to have encouraged or promoted extensive corrupt practices in reference to such election, the court may, after giving such person or persons an opportunity of being heard by counsel or solicitor and of examining and cross-examining witnesses to show cause why the order should not be made, order the whole or part of the costs to be paid by that person, or those persons or any of them, and may order that if the costs cannot be recovered from one or more of such persons they shall be paid by some other of such persons or by either of the parties to the petition.

(2) Where any person appears to the court to have been guilty of the offence of a corrupt or illegal practice, the court may, after giving such person an opportunity of making a statement to show why the order should not be made, order the whole or any part of the costs of or incidental to any proceeding before the court in relation to the said offence or to the said person to be paid by the said person to such person or persons as the court may direct.

(3) The rules and regulations of the Supreme Court of Judicature with respect to costs to be allowed in actions, causes, and matters in the High Court shall in principle and so far as practicable apply to the costs of petition and other proceedings under Part Four of the Municipal Corporations Act, 1882, and this Act, and the taxing officer shall not allow any costs, charges, or expenses on a higher scale than would be allowed in any action, cause, or matter in the High Court on the higher scale, as between solicitor and client.

45 & 46 Vict. c. 50.

*Miscellaneous.*

General provisions as to prosecution of offences under this Act.

XXX. Subject to the other provisions of this Act, the procedure for the prosecution of a corrupt or illegal practice or any illegal payment, employment, or hiring committed in reference to a municipal election, and the removal of any incapacity

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Sect. 30.

Note.

The Solicitor to the Treasury is now Director of Public Prosecutions. (See Prosecution of Offences Act, 1884 (47 & 48 Vict. c. 58).)

As to the rules for the purposes of Part IV. of the Municipal Corporations Act, 1882, see sect. 100 of that Act.

incurred by reason of a conviction or report relating to any such offence, and the duties of the Director of Public Prosecutions in relation to any such offence, and all other proceedings in relation thereto (including the grant to a witness of a certificate of indemnity), shall be the same as if such offence had been committed in reference to a Parliamentary election; and sections forty-five and forty-six and sections fifty to fifty-seven (both inclusive), and sections fifty-nine and sixty of the Corrupt and Illegal Practices Prevention Act, 1883, shall apply accordingly as if they were re-enacted in this Act with the necessary modifications, and with the following additions :— Sect. 30. 46 & 47 Vict. c. 51.

(*a.*) Where the Director of Public Prosecutions considers that the circumstances of any case require him to institute a prosecution before any court other than an election court for any offence other than a corrupt practice committed in reference to a municipal election in any borough, he may, by himself or his assistant, institute such prosecution before any court of summary jurisdiction in the county in which the said borough is situate or to which it adjoins, and the offence shall be deemed for all purposes to have been committed within the jurisdiction of such court; and

(*b.*) General rules for the purposes of Part Four of the Municipal Corporations Act, 1882, shall be made by the same authority as rules of court under the said sections; and 45 & 46 Vict. c. 50.

(*c.*) The giving or refusal to give a certificate of indemnity to a witness by the election court shall be final and conclusive. s. 94 (7).

XXXI. If any person, in consequence of conviction or of the report of an election court under this Act, becomes not capable of being elected to or sitting in the House of Commons, or of being elected to or holding any public or judicial office, and such person, at the date of the said conviction or report, has been so elected or holds any such office, then his seat or office, as the case may be, shall be vacated as from that date. Person incapacitated by conviction or report to vacate seat or office.

XXXII.—(1) Where any costs of a petition are, under an order of a *municipal election court*, to be paid by a *borough*, Payment and recovery of costs.

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For the definition of a public or judicial office, see the Corrupt and Illegal Practices Prevention Act, 1883 (46 & 47 Vict. c. 51), s. 64. Sect. 31. Note.

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In this section, as applicable to an election of guardians, see note to sect. 1, *supra*, for the meanings applicable to the words in italics. Under this section, therefore, the costs of a petition against the Sect. 32. Note.

Sect. 32.

such costs shall be paid out of the *borough fund* or *borough rate*.

(2) Where any costs or other sums are, under the order of an election court or otherwise under this Act, to be paid by any person, those costs shall be a simple contract debt due from such person to the person or persons to whom they are to be paid, and if payable to the Treasury shall be a debt to Her Majesty, and in either case may be recovered accordingly.

Service of notices.

XXXIII. Where any summons, notice, or document is required to be served on any person with reference to any proceeding respecting a municipal election in any borough or ward of a borough, whether for the purpose of causing him to appear before the High Court or any election court, or otherwise, or for the purpose of giving him an opportunity of making a statement, or showing cause, or being heard by himself, before any such court, for any purpose of this Act, such summons, notice, or document may be served either by delivering the same to such person, or by leaving the same at, or sending the same by post by a registered letter to, his last known place of abode in the said borough, or, if the proceeding is before any court, in such other manner as the court may direct, and in proving such service by post it shall be sufficient to prove that the letter was prepaid, properly addressed, and registered with the post office.

Definitions.
45 & 46 Vict. c. 50.
46 & 47 Vict. c. 51.

XXXIV. In this Act expressions have the same meaning as in the Municipal Corporations Act, 1882, and in the Corrupt and Illegal Practices Prevention Act, 1883; except that the words "*borough*," "*election petition*," "*election court*," and "candidate," shall, unless the context otherwise requires, have the meaning given by the Municipal Corporations Act, 1882, and not the meaning given by the Corrupt and Illegal Practices Prevention Act, 1883; and except that "election" shall, unless the context otherwise requires, mean a *municipal election*.

For the purposes of this Act the number of electors shall be taken according to the enumeration of the electors in the *burgess roll*.

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Sect. 32.

Note.

election of a guardian may be ordered to be paid out of the poor rates of the parish or union.

As to the requisites of an order which should be made by the election court to make a borough fund or borough rate liable for the costs of a petition, see *Reg.* v. *Maidenhead* (*Mayor of*), 9 Q. B. D. 494; 51 L. J. Q. B. 444; 46 J. P. 724.

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Sect. 34.

Note.

In an election of guardians, the words in italics have the meanings set out in the note to sect. 1, *supra*.

[Sect. 35. Application to city of London of Act and of Part IV. of 45 & 46 Vict. c. 50: This section applies to an election to the office of mayor, alderman, common councilman, or sheriff, in the city of London, including the election of any officer elected by the mayor, aldermen, and liverymen in common hall.] Sect. 35.

*Application of Act to other Elections.*

Application of this Act and Part IV. of 45 & 46 Vict. c. 50, to other elections.

XXXVI.—(1) Subject as hereinafter mentioned, the provisions of this Act and of Part Four of the Municipal Corporations Act, 1882, as amended by this Act, shall extend to elections for the offices mentioned in the first column of the first schedule to this Act as if re-enacted herein and in terms made applicable thereto, and petitions may be presented and tried, and offences prosecuted and punished, and incapacities incurred in reference to each such election accordingly.

Provided that in the application of the said provisions to any such election:

(*a.*) The area, officer, and rate mentioned opposite to the office in the second, third, and fourth columns of the said schedule, shall be deemed to be substituted for the borough or ward, town clerk, and borough fund or rate respectively.

(*b.*) The expression "corporate office" in the said provisions shall mean an office mentioned in the said schedule, and in relation to the election of a guardian of a union includes any such office in the union, and "a municipal election" shall mean an election to such office, and the expressions "municipal election court," "municipal election list," and "municipal election petition," shall be construed accordingly.

(*c.*) No corrupt and illegal practices list shall be made for any such election.

(*d.*) Vacancies created by the decision of an election court shall be filled by a new election.

(*e.*) A petition relating to the election of a guardian of a union may be tried at any place within the union.

(*f.*) Nothing in the said provisions shall render it unlawful to hold a meeting for the purpose of promoting or procuring the election of a candidate to any office mentioned in the said schedule on any licensed or other premises not situate in an urban sanitary district or in the metropolis;

Sect. 36.

Note.

Sub-s. (1) (*b*).

Sub-s. (1) (*f*).

See note to sect. 1, *supra*, for the meaning of these words as applicable to an election of guardians.

This provision makes an exception to sect. 16, *supra*.

Sect. 36.

(*g.*) Where the poll at any election to an office in the said schedule is taken by means of voting papers, such of the said provisions as relate to personation, polling agents, disclosure of votes and conveyance of voters, shall not apply; but any offence in relation to voting papers or to personation or to voting at such election which is punishable on summary conviction (that is to say), the offences mentioned in section three of the Poor Law Amendment Act, 1851, and in rule sixty-nine of schedule two to the Public Health Act, 1875, shall, without prejudice to the punishment under such section and rule of a person guilty of such offence, be deemed to be an illegal practice within the meaning of the said provisions.

14 & 15 Vict. c. 105.
38 & 39 Vict. c. 55.

[Sub-sect. 1 (*h.*). Repealed by the Local Government Act, 1894 (56 & 57 Vict. c. 73).]

(2) The judges for the time being on the rota for the trial of Parliamentary election petitions, or any two of those judges, may annually appoint as many barristers, not exceeding five, as they may think necessary to be commissioners for the trial of election petitions under Part Four of the Municipal Corporations Act, 1882, and this Act, and shall from time to time assign the petitions (whether relating to a municipal election or to any other election to which this Act extends) to be tried by each commissioner.

Exemption from provisions as to maximum expenses.

XXXVII. The provisions of this Act which prohibit the payment of any sum, and the incurring of any expense by or on behalf of a candidate at an election, on account of, or in respect of, the conduct or management of the election, and those which relate to the time for sending in and paying claims, and those which relate to the maximum amount of election expenses, or the return or declaration respecting election expenses, shall not apply to *any of the elections mentioned in the first schedule to this Act.*

[Sect. 38. *Repeal of Acts.* Sect. 39. *Commencement of Act:* Repealed by the S. L. R. Act, 1898.]

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Sect. 36.
Note.
Sub-s. (1) (*g*).

The Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 48 (3), provides that elections of guardians shall be by ballot, so that this sub-section no longer applies to such elections.

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Sect. 36.
Note.

By the rule in the General Order mentioned in the note to sect. 1, *supra*, relating to the election of guardians, this section is to be read as if a reference to an election of guardians was substituted for a reference to any of the elections mentioned in the first schedule to the Act.

*Extent of Act.*

Sect. 40.

Act not to extend to Scotland or Ireland.

XL. This Act shall not extend to Scotland or Ireland.

[Sect. 41. *Duration of Act:* Repealed by the S. L. R. Act, 1898.]

## SCHEDULES.

### SCHEDULE I.

ELECTIONS TO WHICH THIS ACT EXTENDS. Section 36.

*In England.*

| Office. | Area. | Officer. | Rate. |
|---|---|---|---|
| Member of local board, as defined by the Public Health Act, 1875. | Local Government district or ward of such district. | Clerk to the local board, or person performing like duties. | The general district rate. |
| Member of Improvement Commissioners, as defined by the Public Health Act, 1875. | Improvement Act district or ward of such district. | Clerk to the Improvement Commissioners, or person performing like duties. | The general district rate or other rate out of which the expenses of the Improvement Commissioners are payable. |
| Guardian elected under the Poor Law Amendment Act, 1834. | Parish or ward of a parish or united parishes. | Clerk to the guardians, or person performing like duties. | The poor rate of the parish or united parishes. |
| Member of school board. | School district or division of the metropolis. | Returning officer of school board. | The school fund. |

### SCHEDULE II.

This schedule is repealed by the S. L. R. Act, 1898 : it enumerated the following enactments which were repealed by sect. 38, *supra*, viz., 33 & 34 Vict. c. 75, s. 33; 45 & 46 Vict. c. 50, s. 77 in part; sects. 78—80, 82—84, 92 (4), in part; 92 (5), (6), (7), (8), 98 (2), in part.

Schedule III.

## SCHEDULE III.

### PART I.

Section 2. *Enactments defining Corrupt Practices.—Enactments defining the Offence of Bribery.*

The Corrupt Practices Prevention Act, 1854, 17 & 18 Vict. c. 102, sections 2 and 3.

Bribery defined.

S. 2. The following persons shall be deemed guilty of bribery, and shall be punishable accordingly :—

(1) Every person who shall, directly or indirectly, by himself or by any other person on his behalf, give, lend, or agree to give or lend, or shall offer, promise, or promise to procure or endeavour to procure, any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce any voter to vote or refrain from voting, or shall corruptly do any such act as aforesaid on account of such voter having voted or refrained from voting at any election.

(2) Every person who shall, directly or indirectly, by himself or by any other person on his behalf, give or procure, or agree to give or procure, or offer, promise, or promise to procure or endeavour to procure, any office, place, or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce such voter to vote or refrain from voting, or shall corruptly do any such act as aforesaid on account of any voter having voted or refrained from voting at any election.

(3) Every person who shall, directly or indirectly, by himself or by any other person on his behalf, make any such gift, loan, offer, promise, procurement, or agreement as aforesaid, to or for any person, in order to induce such person to procure or endeavour to procure the return of any person to serve in Parliament, or the vote of any voter at any election.

(4) Every person who shall, upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement, procure, or engage, promise, or endeavour to procure the return of any person to serve in Parliament, or the vote of any voter at any election.

(5) Every person who shall advance or pay, or cause to be paid, any money to or to the use of any other person with the intent that such money, or any part thereof, shall be expended in bribery at any election, or who shall knowingly pay or cause to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election :

Schedule III.

Provided always, that the aforesaid enactment shall not extend or be construed to extend to any money paid or agreed to be paid for on account of any legal expenses *bonâ fide* incurred at or concerning any election.

Bribery further defined.

S. 3. The following persons shall also be deemed guilty of bribery, and shall be punishable accordingly :—

(1) Every voter who shall, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receive, agree, or contract for any money, gift, loan, or valuable consideration, office, place, or employment, for himself or for any other person, for voting or agreeing to vote, or from refraining or agreeing to refrain from voting at any election.

(2) Every person who shall, after any election, directly or indirectly, by himself or by any other person on his behalf, receive any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any election.

The Representation of the People Act, 1867, 30 & 31 Vict. c. 102, s. 49.

Corrupt payment of rates to be punishable as bribery.

S. 49. Any person, either directly or indirectly, corruptly paying any rate on behalf of any ratepayer for the purpose of enabling him to be registered as a voter, thereby to influence his vote at the future election, and any candidate or other person, either directly or indirectly, paying any rate on behalf of any voter for the purpose of inducing him to vote or refrain from voting, shall be guilty of bribery, and be punishable accordingly ; and any person on whose behalf and with whose privity any such payment as in this section is mentioned is made, shall also be guilty of bribery, and punishable accordingly.

*Enactment defining the Offence of Personation.*

The Ballot Act, 1872, 35 & 36 Vict. c. 33, s. 24.

Personation defined.

S. 24. A person shall, for all purposes of the laws relating to Parliamentary and municipal elections, be deemed to be guilty of the offence of personation who, at an election for a county or borough, or at a municipal election, applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead, or of a fictitious person, or who, having voted once at any such election, applies at the same election for a ballot paper in his own name.

**Schedule III.**

*Enactments defining the Offences of Treating and Undue Influence.*

The Corrupt and Illegal Practices Prevention Act, 1883, 46 & 47 Vict. c. 51, ss. 1 and 2.

What is treating.

S. 1. Any person who corruptly by himself or by any other person, either before, during, or after an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing any meat, drink, entertainment, or provision to or for any person for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at the election, or on account of such person or any other person having voted or refrained from voting, or being about to vote or refrain from voting at such election, shall be guilty of treating.

And every elector who corruptly accepts or takes any such meat, drink, entertainment, or provision, shall also be guilty of treating.

What is undue influence.

S. 2. Every person who shall directly or indirectly, by himself or by any other person on his behalf, make use of or threaten to make use of any force, violence, or restraint, or inflict or threaten to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or who shall by abduction, duress, or any fraudulent device or contrivance impede or prevent the free exercise of the franchise of any elector, or shall thereby compel, induce, or prevail upon any elector either to give or to refrain from giving his vote at any election, shall be guilty of undue influence.

*Enactment defining the Offences of Bribery, Treating, Undue Influence, and Personation.*

The Municipal Corporations Act, 1882, 45 & 46 Vict. c. 50, s. 77.

Definitions.

S. 77. "Bribery," "treating," "undue influence," and "personation" include respectively anything done before, at, after, or with respect to a municipal election, which, if done before, at, after, or with respect to a Parliamentary election, would make the person doing the same liable to any penalty, punishment, or disqualification for bribery, treating, undue influence, or personation, as the case may be, under any Act for the time being in force with respect to Parliamentary elections.

PART II. Schedule III.

*Enactments relating to Disqualification of Electors.* Section 23.

The Corrupt and Illegal Practices Prevention Act, 1883, 46 & 47 Vict. c. 51, ss. 37, 38.

Prohibition of disqualified persons from voting. 35 & 36 Vict. c. 60. 45 & 46 Vict. c. 50.

S. 37. Every person who, in consequence of conviction or of the report of any election court or election commissioners under this Act, or under the Corrupt Practices (Municipal Elections) Act, 1872, or under Part IV. of the Municipal Corporations Act, 1882, or under any other Act for the time being in force relating to corrupt practices at an election for any public office, has become incapable of voting at any election, whether a Parliamentary election or an election to any public office, is prohibited from voting at any such election, and his vote shall be void.

Hearing of person before he is reported guilty of corrupt or illegal practice, and incapacity of person reported guilty.

S. 38.—(1) Before a person, not being a party to an election petition nor a candidate on behalf of whom the seat is claimed by an election petition, is reported by an election court . . . to have been guilty, at an election, of any corrupt or illegal practice, the court . . . shall cause notice to be given to such person, and if he appears in pursuance of the notice, shall give him an opportunity of being heard by himself and of calling evidence in his defence to show why he should not be so reported.

* * * * *

(5) Every person who, after the commencement of this Act, is reported by any election court . . . to have been guilty of any corrupt or illegal practice at an election, shall, whether he obtained a certificate of indemnity or not, be subject to the same incapacity as he would be subject to if he had at the date of such election been convicted of the offence of which he is reported to have been guilty . . .

(6) Where a person who is a justice of the peace is reported by any election court . . . to have been guilty of any corrupt practice in reference to an election, whether he has obtained a certificate of indemnity or not, it shall be the duty of the Director of Public Prosecutions to report the case to the Lord High Chancellor of Great Britain, with such evidence as may have been given of such corrupt practice, and where any such person acts as a justice of the peace by virtue of his being or having been mayor of a borough, the Lord High Chancellor shall have the same power to remove such person from being a justice of the peace as if he was named in a commission of the peace.

(7) Where a person who is a barrister or a solicitor, or who belongs to any profession the admission to which is regulated by law, is reported by any election court . . . to have been guilty of any corrupt practice in reference to an election,

Schedule III.

whether such person has obtained a certificate of indemnity or not, it shall be the duty of the Director of Public Prosecutions to bring the matter before the Inn of Court, High Court, or tribunal having power to take cognizance of any misconduct of such person in his profession, and such Inn of Court, High Court, or tribunal may deal with such person in like manner as if such corrupt practice were misconduct by such person in his profession.

(8) With respect to a person holding a license or certificate under the Licensing Acts (in this section referred to as a licensed person) the following provisions shall have effect :—

(*a.*) If it appears to the court by which any licensed person is convicted of the offence of bribery or treating that such offence was committed on his licensed premises, the court shall direct such conviction to be entered in the proper register of licenses :

(*b.*) If it appears to an election court . . . that a licensed person has knowingly suffered any bribery or treating in reference to any election to take place upon his licensed premises, such court . . . (subject to the provisions of this Act as to a person having an opportunity of being heard by himself and producing evidence before being reported) shall report the same ; and whether such person obtained a certificate of indemnity or not, it shall be the duty of the Director of Public Prosecutions to bring such report before the licensing justices from whom or on whose certificate the licensed person obtained his license, and such licensing justices shall cause such report to be entered in the proper register of licenses :

(*c.*) Where an entry is made in the register of licenses of any such conviction of or report respecting any licensed person as above in this section mentioned, it shall be taken into consideration by the licensing justices in determining whether they will or will not grant to such person the renewal of his license or certificate, and may be a ground, if the justices think fit, for refusing such renewal.

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## SCHEDULE IV.

Section 21.

[*Form of Declaration by Candidate as to Expenses.*]

By sect. 37, *supra*, this is not applicable to an election of guardians.

# THE REPRESENTATION OF THE PEOPLE ACT, 1884.

48 & 49 VICT. CHAP. 3.

An Act to amend the Law relating to the Representation of the People of the United Kingdom.

[6th December, 1884.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

*Preliminary.*

I. This Act may be cited as the Representation of the People Act, 1884. Short title of Act.

*Extension of the Household and Lodger Franchise.*

II. A uniform household franchise and a uniform lodger franchise at elections shall be established in all counties and boroughs throughout the United Kingdom, and every man possessed of a household qualification or a lodger qualification shall, if the qualifying premises be situate in a county in England or Scotland, be entitled to be registered as a voter, and when registered to vote at an election for such county, and if the qualifying premises be situate in a county or borough in Ireland, be entitled to be registered as a voter, and when registered to vote at an election for such county or borough. Uniform household and lodger franchise.

III. Where a man himself inhabits any dwelling-house by virtue of any office, service, or employment, and the dwelling-house is not inhabited by any person under whom such man serves in such office, service or employment, he shall be deemed for the purposes of this Act and of the Representation of the Tenure of house by office or service not to invalidate vote.

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Sect. 2. Note.

See sect. 7, *infra*, for the meaning of the terms "household qualification" and "lodger qualification." The effect of this section is to extend to counties the provisions of the Representation of the People Act, 1867 (30 & 31 Vict. c. 102), as to these qualifications, which previously applied only to boroughs.

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Sect. 3. Note.

A room occupied solely as a bedroom may be a "dwelling-house" within this section (*Stribling* v. *Halse*, 16 Q. B. D. 246; 55 L. J. Q. B. 15; 54 L. T. 568; 49 J. P. 727); but a cubicle in a dormitory at a police barrack was held not to fall within the section (*Barnett* v. *Hickmott*, [1895] 1 Q. B. 691; 64 L. J. Q. B. 407; 72 L. T. 236;

Sect. 3. People Acts to be an inhabitant occupier of such dwelling-house as a tenant.

*Prohibition of Multiplication of Votes.*

Restriction on fagot votes.

IV. Subject to the saving in this Act for existing voters, the following provisions shall have effect with reference to elections:

(1) A man shall not be entitled to be registered as a voter in respect of the ownership of any rent-charge except the owner of the whole of the tithe rent-charge of a rectory, vicarage, chapelry, or benefice to which an apportionment of the tithe rent-charge shall have been made in respect of any portion of tithes.

(2) Where two or more men are owners either as joint tenants or as tenants in common of an estate in any land or tenement, one of such men, but not more than one, shall, if his interest is sufficient to confer on him a

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Sect. 3. Note.

43 W. R. 284; *Clutterbuck* v. *Taylor*, [1896] 1 Q. B. 395; 65 L. J. Q. B. 314; 74 L. T. 177; 44 W. R. 531; 60 J. P. 278).

A room occupied by a servant in a separate building in which the master does not personally reside is not "inhabited" by the master, and the servant may be entitled to the franchise (*Holly* v. *Burke*, [1887] 22 L. R. Ir. 463). But if the building is annexed to the building in which the master resides, and is rated with it, the servant does not obtain the franchise (*Crossan* v. *Chambers*, [1885] 18 L. R. Ir. 68). An industrial trainer residing in a workhouse was held entitled under this section, although the board of guardians reserved a room in the workhouse which they used as a board room (*Adams* v. *Ford*, 16 Q. B. D. 239; 55 L. J. Q. B. 13; 53 L. T. 666; 34 W. R. 64; 49 J. P. 711). Officers and non-commissioned officers having separate quarters in barracks are entitled as being in the service of the Crown (*Atkinson* v. *Collard*; *Lowry* v. *Collard*, 16 Q. B. D. 254; 55 L. J. Q. B. 18; 53 L. T. 670; 34 W. R. 75; 50 J. P. 23); and although the compulsory absence of soldiers from their quarters for training or other purposes for a period of the year was held to deprive them of their right to the franchise under this section (*Spittall* v. *Brook*, 18 Q. B. D. 426; 56 L. J. Q. B. 48; 56 L. T. 364; 35 W. R. 520), that grievance is now remedied by the Electoral Disabilities Removal Act, 1891 (54 & 55 Vict. c. 11).

Labourers residing in cottages on farms at a reduced rent and required to give up possession on leaving the service, have a qualification as householders and not a service qualification (*Marsh* v. *Estcourt*, 24 Q. B. D. 147).

Occupation of two dwelling-houses in immediate succession during the qualifying period, the first by service and the second as a householder, qualifies for the occupation franchise (*Nicholson* v. *Yeoman*, 24 Q. B. D. 145; 59 L. J. Q. B. 104; 61 L. T. 813; 54 J. P. 166).

Sect. 4. Note. Sub-s. (1).

The "saving in this Act" referred to at the commencement of this section is contained in sect. 10, *infra*.

See the definition of a rent-charge in sect. 11, *infra*.

Sect. 4.

qualification as a voter in respect of the ownership of such estate, be entitled (in the like cases and subject to the like conditions as if he were the sole owner) to be registered as a voter, and when registered to vote at an election.

Provided that where such owners have derived their interest by descent, succession, marriage, marriage settlement, or will, or where they occupy the land or tenement, and are *bonâ fide* engaged as partners carrying on trade or business thereon, each of such owners whose interest is sufficient to confer on him a qualification as a voter shall be entitled (in the like cases and subject to the like conditions as if he were sole owner) to be registered as a voter in respect of such ownership, and when registered to vote at an election, and the value of the interest of each such owner where not otherwise legally defined shall be ascertained by the division of the total value of the land or tenement equally among the whole of such owners.

*Assimilation of Occupation Qualification.*

Assimilation of occupation qualification.

V. Every man occupying any land or tenement in a county or borough in the United Kingdom of a clear yearly value of not less than ten pounds shall be entitled to be registered as a voter and when registered to vote at an election for such county or borough in respect of such occupation subject to the like conditions respectively as a man is, at the passing of this Act, entitled to be registered as a voter and to vote at an election for such county in respect of the county occupation franchise, and at an election for such borough in respect of the borough occupation franchise.

*Supplemental Provisions.*

[Such parts of these provisions as relate exclusively to Scotland and Ireland are omitted.]

Voter not to vote for county in respect of occupation of property in borough.

VI. A man shall not by virtue of this Act be entitled to be registered as a voter, or to vote at any election for a county in respect of the occupation of any dwelling-house, lodgings, land, or tenement, situate in a borough.

Definition of household and lodger qualification and

VII.—(1) In this Act the expression "a household qualification" means, as respects England . . . the qualification enacted by the third section of the Representation of the People Act,

Sect. 5.

Note.

This 10*l.* qualification is in substitution for the 12*l.* qualification in counties created by the Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 6, now repealed, and is assimilated to the 10*l.* qualification in boroughs created by the Reform Act, 1832 (2 & 3 Will. 4, c. 45), s. 27, now repealed.

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1867, and the enactments amending or affecting the same, and the said section and enactments, so far as they are consistent with this Act, shall extend to counties in England . . .

* * * * *

other franchises, and application of enactments relating thereto.

(3) The expression "a lodger qualification" means the qualification enacted, as respects England, by the fourth section of the Representation of the People Act, 1867, and the enactments amending or affecting the same . . . and the said section of the English Act of 1867, and the enactments amending or affecting the same, shall, so far as they are consistent with this Act, extend to counties in England . . .

30 & 31 Vict. c. 102, s. 4.

* * * * *

(6) The expression "county occupation franchise" means, as respects England, the franchise enacted by the sixth section of the Representation of the People Act, 1867 . . .

30 & 31 Vict. c. 102, s. 6.

(7) The expression "borough occupation franchise" means, as respects England, the franchise enacted by the twenty-seventh section of the Act of the session of the second and third years of the reign of King William the Fourth, chapter forty-five . . .

2 & 3 Will. 4, c. 45, s. 27.

(8) Any enactments amending or relating to the county occupation franchise or borough occupation franchise other than the sections in this Act in that behalf mentioned shall be deemed to be referred to in the definition of the county occupation franchise and the borough occupation franchise in this Act mentioned.

Definition of "Representation of the People Acts" and "Registration Acts."

VIII.—(1) In this Act the expression "the Representation of the People Acts" means the enactments for the time being in force in England, Scotland, and Ireland respectively relating to the representation of the people, inclusive of the Registration Acts as defined by this Act.

(2) The expression "the Registration Acts" means the enactments for the time being in force in England, Scotland, and Ireland respectively, relating to the registration of persons entitled to vote at elections for counties and boroughs, inclusive of the Rating Acts as defined by this Act.

(3) The expressions "the Representation of the People Acts" and "the Registration Acts" respectively, where used in this Act, shall be read distributively in reference to the three parts of the United Kingdom as meaning in the case of each part the enactments for the time being in force in that part.

(4) All enactments of the Registration Acts which relate to the registration of persons entitled to vote in boroughs in England in respect of a household or a lodger qualification, . . . shall, with the necessary variations and with the necessary alterations of precepts, notices, lists, and other forms, extend to counties as well as to boroughs.

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Sect. 9.

Definition and application of Rating Acts.

IX.—(1) In this Act the expression "the Rating Acts" means the enactments for the time being in force in England, Scotland, and Ireland respectively, relating to the placing of the names of occupiers on the rate-book, or other enactments relating to rating in so far as they are auxiliary to or deal with the registration of persons entitled to vote at elections; and the expression "the Rating Acts" where used in this Act shall be read distributively in reference to the three parts of the United Kingdom as meaning in the case of each part the Acts for the time being in force in that part.

(2) In every part of the United Kingdom it shall be the duty of the overseers annually, in the months of April and May, or one of them, to inquire or ascertain with respect to every hereditament which comprises any dwelling-house or dwelling-houses within the meaning of the Representation of the People Acts, whether any man, other than the owner or other person rated or liable to be rated in respect of such hereditament, is entitled to be registered as a voter in respect of his being an inhabitant occupier of any such dwelling-house, and to enter in the rate-book the name of every man so entitled, and the situation or description of the dwelling-house in respect of which he is entitled, and for the purposes of such entry a separate column shall be added to the rate-book.

(3) For the purpose of the execution of such duty, the overseers may serve on the person who is the occupier or rated or liable to be rated in respect of such hereditament, or on some agent of such person concerned in the management of such hereditament, the requisition specified in the third schedule to this Act requiring that the form in that notice be accurately filled up and returned to the overseers within twenty-one days after such service; and if any such person or agent on whom such requisition is served fails to comply therewith, he shall be liable on summary conviction to a fine not exceeding forty shillings, and any overseer who fails to perform his duty under this section shall be deemed guilty of a breach of duty in the execution of the Registration Acts, and shall be liable to be fined accordingly a sum not exceeding forty shillings for each default.

(4) The notice under this section may be served in manner provided by the Representation of the People Acts with respect

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Note.

Sub-s. (2).

A person who is not rated in respect of a dwelling-house occupied by him may nevertheless be entitled to the franchise as an occupier under the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), s. 19, or under sect. 3 of this Act; and see sub-sect. (8), *infra*. It will be the duty of the overseers to ascertain the names of all such persons.

Sub-s. (4).

The notice may, therefore, be served by delivering it to the occupier of the house or leaving it at his last or usual place of abode, or with some person on the premises: see the Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 28; or if no such

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to the service on occupiers of notice of non-payment of rates, and, where a body of persons, corporate or unincorporate, is rated, shall be served on the secretary or agent of such body of persons; and where the hereditament by reason of belonging to the Crown or otherwise is not rated, shall be served on the chief local officer having the superintendence or control of such hereditament.

* * * * *

(8) Both in England and Ireland where a man inhabits any dwelling-house by virtue of any office, service, or employment, and is deemed for the purposes of this Act and of the Representation of the People Acts to be an inhabitant occupier of such dwelling-house as a tenant, and another person is rated or liable to be rated for such dwelling-house, the rating of such other person shall for the purposes of this Act and of the Representation of the People Acts be deemed to be that of the inhabitant occupier; and the several enactments of the Poor Rate Assessment and Collection Act, 1869, and other Acts amending the same referred to in the first schedule to this Act shall for those purposes apply to such inhabitant occupier, and in the construction of those enactments the word "owner" shall be deemed to include a person actually rated or liable to be rated as aforesaid.

(9) In any part of the United Kingdom where a man inhabits a dwelling-house in respect of which no person is rated by

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Sect. 9.

person can be found by fixing it on a conspicuous part of the premises: Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 10. The prescribed method of service must be strictly followed (*Palmer* v. *Balrothery Union*, [1895] 2 Ir. Rep. 586).

Note.

Sub-s. (4).

Sub-s. (8).

The effect of the enactments above applied may be thus shortly stated:—By the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), payment of rate by owner is to be deemed payment by occupier for purposes of franchise (sect. 7); owner who is rated or pays poor rates is to give list of occupiers to overseers under a penalty of 2*l.* (sect. 9); sect. 28 of the Representation of the People Act, 1867 (30 & 31 Vict. c. 102), with respect to notices of rates in arrear, is to apply to occupiers when the owner is rated (sect. 10); the names of all occupiers are to be inserted in the rate when the owner is rated or pays the rates, and the rating of the owner is to be deemed a rating of the occupier; but the omission of an occupier's name is not to deprive him of any franchise (sect. 19); the term "owner" is to mean any person receiving or claiming the rent of the hereditaments for his own use, or receiving the same for the use of any corporation aggregate, or of any public company, or of any landlord or lessee who shall be a minor, a married woman, or insane, or for the use of any person for whom he is acting as agent (sect. 20). The Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 14, amends 32 & 33 Vict. c. 41, s. 19, by providing that it shall not be deemed to apply exclusively to cases where an agreement has been made under sect. 3 of the same Act, or where an order has been made under sect. 4 of the same Act, but shall be of general application.

reason of such dwelling-house belonging to or being occupied on behalf of the Crown, or by reason of any other ground of exemption, such person shall not be disentitled to be registered as a voter, and to vote by reason only that no one rated in respect of such dwelling-house, and that no rates are paid in respect of the same, and it shall be the duty of the persons making out the rate-book or valuation roll to enter any such dwelling-house as last aforesaid in the rate-book or valuation roll, together with the name of the inhabitant occupier thereof. Sect. 9.

X. Nothing in this Act shall deprive any person (who at the date of the passing of this Act is registered in respect of any qualification to vote for any county or borough) of his right to be from time to time registered and to vote for such county or borough in respect of such qualification in like manner as if this Act had not passed. Saving.

Provided that where a man is so registered in respect of the county or borough occupation franchise by virtue of a qualification which also qualifies him for the franchise under this Act, he shall be entitled to be registered in respect of such latter franchise only.

Nothing in this Act shall confer on any man who is subject to any legal incapacity to be registered as a voter or to vote, any right to be registered as a voter or to vote.

XI. This Act, so far as may be consistently with the tenor thereof, shall be construed as one with the Representation of the People Acts as defined by this Act; and the expressions "election," "county," and "borough," and other expressions in this Act and in the enactments applied by this Act, shall have the same meaning as in the said Acts. Construction of Act.

Provided that in this Act and the said enactments—

The expression "overseers" includes assessors, guardians, clerks of unions, or other persons by whatever name known, who perform duties in relation to rating or to the registration of voters similar to those performed in relation to such matters by overseers in England.

The expression "rent-charge" includes a fee farm rent, a

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Sect. 10. Note.

In and previous to the year 1884, A. was a joint rated occupier with B., of premises of sufficient rateable value to confer on each of them the Parliamentary franchise, under 13 & 14 Vict. c. 69, s. 6, and so continued down to the month of May, 1887, when A. moved into separate premises, which, if occupied for a sufficient period, were of a character to have qualified him under this Act:—*Held*, that under the saving clause in this section, A. might bring his new qualification in aid of his old one, and was entitled to be registered, although the existing register described him in respect of his earlier qualification as a "rated occupier," instead of a joint rated occupier (*McCrabb* v. *Chambers*, 22 L. R. Ir. 436).

Sect. 11.

feu duty in Scotland, a rent seck, a chief rent, a rent of assize, and any rent or annuity granted out of land.

The expression "land or tenement" includes any part of a house separately occupied for the purpose of any trade, business, or profession . . .

* * * * *

Repeal of certain superseded sections.

XII. Whereas the franchises conferred by this Act are in substitution for the franchises conferred by the enactments mentioned in the first and second parts of the second schedule hereto, be it enacted that the Acts mentioned in the first part of the said second schedule shall be repealed to the extent in the third column of that part of the said schedule mentioned except in so far as relates to the rights of persons saved by this Act; and the Acts mentioned in the second part of the said second schedule shall be repealed to the extent in the third column of that part of the said schedule mentioned except in so far as relates to the rights of persons saved by this Act and except in so far as the enactments so repealed contain conditions made applicable by this Act to any franchise enacted by this Act.

[Sect. 13. *Commencement of Act:* Repealed by the S. L. R. Act, 1898.]

## FIRST SCHEDULE.

Section 9.

*Enactments applied to Ireland.*

[By sect. 9 (8), *supra*, these enactments are also applied to inhabitant occupiers having the service franchise in England.]

| Session and Chapter. | Title. | Enactments applied. |
|---|---|---|
| 32 & 33 Vict. c. 41 . | The Poor Rate Assessment and Collection Act, 1869. | Section seven; section eight; section nine; section ten and the enactment of the Representation of the People Act, 1867, therein referred to; section nineteen; section twenty, so far as regards the definition of the word "owner." |
| 41 & 42 Vict. c. 26 . | The Parliamentary and Municipal Registration Act, 1878. | Section fourteen. |
| 42 & 43 Vict. c. 10 . | The Assessed Rates Act, 1879. | The whole Act. |

### MODIFICATION.

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In the above mentioned enactment of the Representation of the People Act, 1867, the 31st day of December shall be substituted for the 5th day of January, the 1st day of May for the 1st day of June, and the 20th day of May for the 20th day of June.

SECOND SCHEDULE. Schedules.

[This schedule is repealed by the S. L. R. Act, 1898. Part I. of the schedule repealed 2 & 3 Will. 4, c. 5, s. 20 in part; and Part II. repealed 2 & 3 Will. 4, c. 45, s. 27; 2 & 3 Will. 4, c. 65, s. 11 in part; 13 & 14 Vict. c. 69, ss. 1, 5; 30 & 31 Vict. c. 102, s. 6; and portions of Scotch Acts.]

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THIRD SCHEDULE.

[Contained forms which are now superseded by the Registration Order, 1895, schedules 2, 3, forms A.]

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# THE MUNICIPAL VOTERS RELIEF ACT, 1885.

48 & 49 VICT. CHAP. 9.

An Act to relieve Municipal Voters from being disqualified in consequence of letting their Dwelling-houses for short periods. [28th April, 1885.]

[Such parts of this Act as relate exclusively to Scotland and Ireland are omitted.]

WHEREAS by the House Occupiers Disqualification Removal Act, 1878, provision was made that a man should be entitled to be registered as an inhabitant occupier of a dwelling-house under the third section of the Representation of the People Act, 1867, notwithstanding that during a part of the qualifying period not exceeding four months in the whole, he should by letting, or otherwise, have permitted the qualifying premises to be occupied as a furnished house by some other person: 41 & 42 Vict. c. 3. 30 & 31 Vict. c. 102.

* * * * *

And whereas it is expedient to extend the said Acts to voters at municipal elections:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

I. This Act may be cited as the Municipal Voters Relief Act, 1885. Short title.

II. From and after the passing of this Act a man shall not be disqualified from being enrolled or voting as a burgess at any municipal election in a borough, in respect of the occupation of Letting as furnished house for certain period not to disqualify.

This Act is applied to county electors by the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 2. Sect. 2. Note.

Sect. 2.

any house, by reason only that during a part of the qualifying period, not exceeding four months in the whole, he has, by letting or otherwise, permitted such house to be occupied as a furnished dwelling-house by some other person, and during such occupation by another person has not resided in or within seven miles of the borough.

Definitions.

III. In this Act—

45 & 46 Vict. c. 50.

The expression "burgess" has, in England, the same meaning as in the Municipal Corporations Act, 1882 . . .

The expression "municipal election" has, in England, the same meaning as in the Municipal Corporations Act, 1882 . . .

[Sect. 4. Reduction of qualifying period of occupation in Dublin.]

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# THE REGISTRATION ACT, 1885.

48 & 49 VICT. CHAP. 15.

An Act to assimilate the Law affecting the Registration of Occupation Voters in Counties and Boroughs, and for other purposes. [21st May, 1885.]

WHEREAS it is expedient that the assimilation of the county and borough occupation franchises should be followed by an assimilation of the registration law applicable to those franchises in counties and boroughs:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Extension to county voters of borough system of registration.

(1) Occupation voters.

(2) Ownership voters. 41 & 42 Vict. c. 26.

I.—(1) Subject to the modifications in this Act mentioned, the registration of occupation voters in Parliamentary counties shall be conducted in the like manner as the registration of occupation voters in Parliamentary boroughs and the Parliamentary Registration Acts shall apply to Parliamentary counties in like manner as they apply to Parliamentary boroughs.

(2) Subject to the modifications in this Act mentioned, the following sections of the Parliamentary and Municipal Registration Act, 1878, that is to say,—

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Note.

Sub-s. (1).

For the definition of the term "Parliamentary Registration Acts," see sect. 19, *infra*.

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Section nine (relating to the publication of notices at post offices, telegraph offices, and public, municipal, and parochial offices);

Section twenty-seven (relating to objections to the lists of voters);

Section twenty-eight (relating to the duties and powers of revising barristers); and

Section twenty-nine (relating to the power to fine overseers for neglect of duty),

shall apply to the registration of ownership voters in Parliamentary counties in like manner as to the registration of occupation voters; but save as aforesaid, nothing in this section shall be deemed to extend to ownership voters any of the provisions of the Parliamentary Registration Acts which relate to boroughs.

(3) Modifications.

(3) In the construction of the above-mentioned Acts and sections for the purposes of their application by this section, there shall be made the variations following, and such other variations as are necessary for carrying into effect the said application; that is to say,—

(*a.*) "Parliamentary county" shall be substituted for "Parliamentary borough."

(*b.*) "Clerk of the peace" shall, subject as in this Act mentioned, be substituted for "town clerk," save where the context requires a reference to the town clerk of a municipal borough.

41 & 42 Vict. c. 26.

(*c.*) Section nine of the Parliamentary and Municipal Registration Act, 1878, shall apply only to the publication of notices within parishes situate wholly or partly in an urban sanitary district and not in a Parliamentary borough.

(*d.*) Section sixteen of the Parliamentary and Municipal Registration Act, 1878, shall not apply to Parliamentary counties, except so far as relates to the registration of persons entitled to vote in respect of a lodger qualification.

(*e.*) Section twenty-one of the Parliamentary and Municipal Registration Act, 1878, shall not apply to Parliamentary counties.

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Sect. 1.

Note.

Sub-s. (3) (*a*).

This must be now read in conjunction with the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4 (2) (*a*).

Sub-s. (3) (*c*).

The section here referred to does not now apply to any parish which is not wholly situate in an urban district: see County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4 (2) (*d*).

Sub-s. (3) (*e*).

This section here referred to does not apply to a parish not within a Parliamentary borough: see County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4 (2) (*e*).

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(*f.*) Any notice required to be given to the town clerk by section twenty-seven of the Parliamentary and Municipal Registration Act, 1878, relating to the withdrawal and revival of objections, shall be given in a Parliamentary county to the overseers, and not to the clerk of the peace.

Adaptation of Acts as regards lists of county voters.

II.—(1) For the purpose of the enactments relating to the registration of voters the lists of occupation voters in a Parliamentary county shall be deemed to be part of the list of voters in that county, and any person whose name appears in the list of voters may object to the name of any other person therein, in like manner as if he were on the register of voters for the county.

(2) In the list of voters and register of voters in a Parliamentary county there shall be separate lists of—

(*a.*) Ownership voters;

(*b.*) Occupation voters other than lodgers; and

(*c.*) Lodgers.

Alteration of dates.

III.—(1) In both Parliamentary counties and Parliamentary boroughs notices of claims and objections shall be given on or before the twentieth day of August, and the twentieth day shall be substituted in the Parliamentary Registration Acts for the twenty-fifth day of August wherever the same occurs.

(2) The overseers shall, in both Parliamentary counties and Parliamentary boroughs, on or before the twenty-fifth day of August, publish the lists of claims and objections, and deliver to the clerk of the peace and town clerk respectively the papers mentioned in sections nine and nineteen of the Parliamentary Registration Act, 1843; and the twenty-fifth day of August shall be substituted in the Parliamentary Registration Acts for the twenty-ninth day of August and for the first day of September wherever those dates respectively occur, and the first fourteen days after the said twenty-fifth day of August shall be substituted for the first fourteen days of September.

6 & 7 Vict. c. 18.

Amendments as to revision.

IV.—(1) The court for the revision of the lists of voters in a Parliamentary county may be held within the same period within which a court may be held for the revision of the lists of voters in a Parliamentary borough, and seven days' notice of each court shall be sufficient.

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Sect. 3.

Note.

The papers mentioned here are the lists of voters, claims, and objections.

Sect. 4.

Note.

Sub-s. (1).

By the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 6 (1), the time for revising lists is fixed to be between the 8th September and the 12th October.

Sect. 4.

(2) All declarations made in pursuance of section ten of the County Voters Registration Act, 1865, shall be transmitted to the clerk of the peace on or before the *twelfth* day of September, and such declarations shall be open to inspection, and copies thereof shall be sold, on any day prior to the first day on which a court for the revision of the lists of voters in a Parliamentary county can be held. 28 & 29 Vict. c. 36.

(3) Where a place in a Parliamentary county at which a revising barrister for such county is required to hold a court, is an urban sanitary district containing, according to the last published census for the time being, more than ten thousand inhabitants, the revising barrister shall hold at least one evening sitting of his court in such place, and section four of the Revising Barristers Act, 1873, shall apply to such sitting with the substitution of clerk of the peace for town clerk. 36 & 37 Vict. c. 70.

(4) When it appears to the local authority having power to assign polling places in a Parliamentary county that, for the convenience of the voters in some polling district in such county, it is expedient to direct the holding of a revision court in a town near such polling district, although outside the boundary of the said county, the said authority may direct the revising barrister for the county to hold a revision court in such town.

(5) The revising barrister need not insert in any list of voters for a parish in a county or borough the names of persons claiming to be inserted in such list, but may revise the list of claimants in like manner as if it were a list of voters, and sign the same as so revised, and deliver it to the clerk of the peace or town clerk as the case requires, and such clerk shall insert in the proper place in the lists of voters the name of each person appearing from the revised list of claimants so signed to be entitled to vote.

(6) The revising barrister shall, if practicable, complete the revision of the lists of voters for the parishes in one polling district in a Parliamentary county, and transmit the same to the clerk of the peace of the county, before proceeding to revise the lists of voters for any parish in another polling district.

(7) The clerk of the peace shall, as soon as possible, proceed to cause copies of such lists to be printed, and in numbering the names shall prefix the number one to the first name in each polling district, so that there may be a separate series of numbers for each polling district, and such distinctive letter shall be applied to each polling district as may be determined by the local authority creating the polling district, or in default

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Sect. 4.

Note.

Sub-s. (2)

By the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 6, these declarations must be sent to the clerk of the peace or town clerk on or before the 5th September, and the first day for holding a revision court is the 8th September.

Sub-s. (4).

The power to assign polling places, which formerly belonged to the quarter sessions, is transferred to the county council by the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 3 (12).

Sect. 4.

of such determination by the clerk of the peace; and in the case of a poll such letter shall be deemed to be part of the number of the elector, to be marked in manner directed by the Ballot Act, 1872.

35 & 36 Vict. c. 33.

(8) The clerk of the peace shall, as soon as possible after the receipt of all the revised lists of his county, cause to be made out and printed a separate supplemental list for each polling district, containing the names of all persons whose names do not appear in any list of voters for the parishes in such district, but who have been registered by the revising barrister as entitled to vote at the polling place of such district; and such supplemental list shall be placed at the end of the parish lists in each polling district; and the names therein shall be numbered consecutively after the rest of the lists in such polling district. The clerk of the peace shall add at the end of the register of voters a summary of the number of voters in each polling district.

41 & 42 Vict. c. 26.

(9) Sub-section fourteen of section twenty-eight of the Parliamentary and Municipal Registration Act, 1878, shall not apply to Parliamentary counties, and in substitution for it the following provisions shall have effect:—

(*a.*) Where the name of a person appears to be entered more than once as a Parliamentary voter on the lists of voters for the same Parliamentary county, the revising barrister shall inquire whether such entries relate to the same person, and, on proof that such entries relate to the same person shall retain one entry and erase the others.

(*b.*) The said person may select the entry to be retained by notice in writing delivered or sent by post to the revising barrister at or before the opening of the first court at which he revises any of the lists in which any of such entries appear, or by application made by such person or on his behalf at the time of the revision of the first of such lists.

(*c.*) If no selection is so made the entry to be retained shall be determined as follows:

(i) if one only of the entries is on the list of ownership voters, that entry shall be retained; and

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Sect. 4. Note. Sub-s. (9).

By the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 7 (5), it was provided that these entries should not be erased, but that the revising barrister should place an asterisk or other mark against them. Now by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 44, instead of placing an asterisk, the revising barrister shall place against the name, if the person is entitled to vote in respect of that entry as a county elector or burgess, a mark signifying that his name should be printed in Division 3 of the list, or if he is entitled to vote only as a parochial elector, a mark signifying that he is entitled to vote as a parochial elector.

Sect. 4.

(ii) if all or none of the entries are on the list of ownership voters, and one of the entries is the place of abode of the voter, the entry in respect of the place of abode shall be retained; and

(iii) in any other case the entry in that one of the lists which is first revised by the revising barrister shall be retained,

and if any such entry to be retained is objected to, the revising barrister shall not finally erase any other entry until the objection to the entry to be retained has been determined by him in favour of the voter.

Provision as to double entries in boroughs.

V.—(1) Where a person is entered more than once as a Parliamentary voter on the lists of voters for the same Parliamentary borough, and the revising barrister proceeds in pursuance of sub-section fourteen of section twenty-eight of the Parliamentary and Municipal Registration Act, 1878, to retain one of such entries for voting, and places against the others a note to the effect that such person is not entitled to vote in respect of the qualification therein contained, and such person has not selected the entry to be retained, the entry to be retained shall be determined as follows:

(*a.*) If one of the entries is on the list of freemen that entry shall be retained;

(*b.*) if neither of the entries is on the list of freemen, and one of the entries is the place of abode of the voter, the entry in respect of the place of abode shall be retained; and

(*c.*) in any other case the entry in that one of the lists which is first revised by the revising barrister shall be retained;

and if any such entry to be retained is objected to, the revising barrister shall not finally place a note against any other entry until the objection to the entry to be retained has been determined by him in favour of the voter.

(2) Where a Parliamentary borough is divided into divisions, and notwithstanding the said provisions of the Parliamentary and Municipal Registration Act, 1878, and this Act, the name of a person is entered in the register of Parliamentary voters in more than one division in the said Parliamentary borough without such note as above in this section mentioned, and one

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Sect. 5.

Note.

Sub-s. (1).

Under 41 & 42 Vict. c. 26, s. 28 (14), if the voter did not make a selection, the entry to be retained was selected by the revising barrister except in the case of freemen, in which case the entry to be retained was to be that on the freeman's list.

As to list of freemen, see the Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), s. 14.

Sect. 5.

of those entries is his place of abode, he shall be entitled to vote only in that division in which he is registered as a voter in respect of his place of abode, and shall not vote in respect of any other entry.

Saving as to registration of burgesses and voters in parishes in municipal boroughs.

VI.—(1). [Repealed by the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4.]

(2) But where any part of the area of the said municipal borough was immediately before the dissolution of this present Parliament included in the area of a Parliamentary borough, and such Parliamentary borough ceased after such dissolution to be a Parliamentary borough, then the registration of occupation voters and the enrolment of burgesses in a parish in such municipal borough shall be conducted in like manner, so nearly as may be, as heretofore, and the Parliamentary and Municipal Registration Act, 1878, shall apply to the said municipal borough in like manner as heretofore, subject nevertheless as follows:

(*a.*) "Parliamentary county" shall, for the purpose of such application, be substituted for "Parliamentary borough."

(*b.*) The lists and register of voters shall be made out alphabetically in like manner as in the rest of the county, but the lists shall be framed in parts for polling districts and wards in such manner that the parts may be conveniently compiled or put together to serve as lists for polling districts or as ward lists.

(*c.*) The overseers of any parish in such municipal borough shall send to the clerk of the peace for the Parliamentary county two copies of the lists of voters at the same time at which they send copies to the town clerk, and the lists of voters for a parish in such borough when revised shall be transmitted by the revising barrister to such clerk of the peace, and dealt with by him as with other lists in his county, but, save as aforesaid, the town clerk of the municipal borough shall, until such transmission, act as and be deemed to be the town clerk within the meaning of the Parliamentary Registration Acts and this Act in relation to such parish, and the clerk of the peace shall not act in relation to the registration of occupation voters in such parish.

(*d.*) The lists of occupation voters and burgesses shall be

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Sect. 6.

Note.

Sub-s. (2).

The words "said municipal borough" refer to a municipal borough not co-extensive with nor wholly included in a Parliamentary borough as mentioned in the repealed sub-sect. (1).

This sub-section is by the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4, applied to the enrolment of burgesses in a municipal borough to which the Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), does not apply.

Sect. 6.

revised by the revising barrister for the Parliamentary county in which the municipal borough is situate, and if that borough extends into more Parliamentary counties than one, then by the revising barrister for the Parliamentary county in which the greater part in extent of such municipal borough is situate, and such revising barrister shall hold a court in the municipal borough.

Clerks of the peace and town clerks.

VII.—(1) Clerks of the peace and town clerks shall send their precepts to the overseers in the present year within twelve days after the passing of this Act, and in any subsequent year on or within seven days before the fifteenth day of April.

(2) Where a Parliamentary county is co-extensive with or comprised in one county quarter sessional area, the clerk of the peace for that area shall, as regards such Parliamentary county, be clerk of the peace for the county within the meaning of the Parliamentary Registration Acts and this Act, subject nevertheless to the provisions of section one hundred and one of the Parliamentary Registration Act, 1843, with respect to the town clerk of the borough of Newport, Isle of Wight, being deemed and taken to be clerk of the peace for the Parliamentary county of the Isle of Wight.

6 & 7 Vict. c. 18.

(3) Where a Parliamentary county extends into more county quarter sessional areas than one, the clerk of the peace of each county quarter sessional area shall, in respect of each parish in such Parliamentary county which is within his jurisdiction, act as and be deemed to be the clerk of the peace of the county within the meaning of the Parliamentary Registration Acts and this Act, until the lists of voters for such parish have been revised; but the revising barrister shall transmit the revised lists of voters for such parish to the clerk of the peace of the county quarter sessional area which comprises the largest part in extent of the said Parliamentary county, and save as aforesaid, such last-mentioned clerk shall, as respects the said Parliamentary county, act as, and be deemed to be sole clerk of the peace of the county for the purposes of the Parliamentary Registration Acts and this Act.

Application of 30 & 31 Vict. c. 102, s. 31, as to remuneration of clerks of the peace.

VIII. Whereas by section thirty-one of the Representation of the People Act, 1867, it was provided that the word "expenses" in sections fifty-four and fifty-five of the Parliamentary Regis-

Sect. 7.

Note.

Sub-s. (1).

Sub-s. (3).

As to these precepts, see the Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), ss. 3, 10.

As to the clerk of the peace where the Parliamentary county extends into more quarter sessional areas than one, see the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 14.

Sect. 8.

tration Act, 1843, should include and apply to all proper and reasonable fees and charges of any clerk of the peace of any county, or of any town clerk of any city or borough to be thereafter made or charged by him in any year for his trouble, care, and attention in the performance of the services and duties imposed on him by the above-mentioned Acts:

48 & 49 Vict. c. 3.

And whereas doubts may arise as to whether the said section would extend to services and duties imposed upon him by the Representation of the People Act, 1884, or this Act, and it is expedient to remove such doubts: Be it therefore enacted as follows:

Section thirty-one of the Representation of the People Act, 1867, with respect to the remuneration of clerks of the peace and town clerks, shall extend to their duties under the Representation of the People Act, 1884, and this Act.

Divided parishes.

IX. Where a parish is situate partly within and partly without the boundary of a Parliamentary county, or of a Parliamentary borough, or of a municipal borough, the burgesses of which are enrolled in accordance with the Parliamentary and Municipal Registration Act, 1878, the Parliamentary Registration Acts and this Act shall apply as if the several parts of the parish divided by such boundaries were respectively separate parishes, and the overseers of the whole undivided parish were also the overseers of each such separate parish.

41 & 42 Vict. c. 26.

[Sect. 10. *Special provisions as to voters in* 1885: Repealed by the S. L. R. Act, 1898.]

Provision as to voters in respect of 50*l.* rental.

XI. A man entitled to be registered as a fifty pounds rental voter shall be registered as an occupation voter and not as an ownership voter, and shall be included in the expression "occupation voter" in this Act, and it shall be the duty of the overseers to insert the name of every fifty pounds rental voter in the list of occupation voters, and to add "objected" before the name of such voter in the portion of the register relating to ownership voters.

Extension to freeholders of 41 & 42 Vict. c. 26, s. 7, as to the period of qualification.

XII. Whereas by section seven of the Parliamentary and Municipal Registration Act, 1878, it is provided that every period of qualification for Parliamentary voters in Parliamentary boroughs which was then computed by reference to the last day of July should be computed by reference to the fifteenth day of July, and the said enactment extends to occupation voters in Parliamentary counties, and it is expedient to extend the same enactment to all other voters in Parliamentary counties: Be it therefore enacted as follows:

Sect. 9.

Note.

By the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 4, the burgesses in all municipal boroughs are enrolled in accordance with the Parliamentary and Municipal Registration Act, 1878.

Every period of qualification as defined by the said Act for any voter in a Parliamentary county which is now computed by reference to the last day of July shall, instead of being so computed, be computed by reference to the fifteenth day of July. Sect. 12.

As to constitution of polling districts.

XIII.—(1) Where a Parliamentary county is co-extensive with or is comprised within one county quarter sessional area the court of county quarter sessions having jurisdiction in that area shall be the local authority having power to divide such Parliamentary county into polling districts within the meaning of the enactments relating to polling districts.

(2) Where a Parliamentary county extends into more county quarter sessional areas than one, the court of county quarter sessions for the area which comprises the largest part in extent of such Parliamentary county, shall be the local authority having power to divide such Parliamentary county into polling districts.

(3) Where a Parliamentary county extends into more county quarter sessional areas than one, the local authority having power to divide the said county into polling districts shall have power to agree with any other court of quarter sessions having jurisdiction in that area for the constitution of a joint committee to take into consideration the division of such county into polling districts and assigning of polling places to such districts, and shall, after receiving the report of the said committee, make such order thereon as they may think fit.

(4) The local authority having power to divide any Parliamentary county or Parliamentary borough into polling districts shall, not later than one month after the passing of this Act, take into consideration the division of such county or borough into polling districts, and, if necessary, in order to make the districts conform with the enactments relating to the division of counties and boroughs into polling districts, shall divide such county and borough, or any division of such borough, anew into polling districts, and (in a county) assign polling places to such districts, in such manner as shall make the districts so conform with the said enactments, measuring the distance therein mentioned along the nearest road, so as to meet the convenience of electors in recording their votes.

(5) A court of general sessions shall, where necessary for the purposes of this section, be assembled forthwith after the passing of this Act.

As to expenses in case of divided county jurisdiction.

XIV.—(1) Where any expenses have been incurred, either by the court of county quarter sessions of any county quarter

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The county council is substituted for the quarter sessions in these sections by the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 3 (12).

Sects. 13 & 14. Note.

Sect. 14.

sessional area in dividing a Parliamentary county into polling districts, or by the clerk of the peace of any county quarter sessional area under the Parliamentary Registration Acts, or this Act, and such expenses were incurred partly in respect of a locality which does, and partly in respect of a locality (whether a division, liberty, county of a town, or other locality) which does not contribute to the county rate levied by the court of county quarter sessions of such county quarter sessional area, that court shall apportion the expenses between the localities in the ratio, so nearly as may be, which the number of registered voters in each locality for the time being bear to each other, and the amount apportioned to any such non-contributing locality shall be defrayed out of the county rate or rate in the nature of a county rate levied in such locality; and an order of the said court of county quarter sessions, made on the treasurer or other officer receiving such rate, shall be obeyed by and may be enforced against such treasurer, as if he were the treasurer of the court of county quarter sessions making the order.

(2) Where a Parliamentary borough is situate within the jurisdiction of more than one court of county quarter sessions, and by reason of there being no town council in such borough, the expenses of the town clerk under the Parliamentary Registration Acts and this Act are required to be allowed by the quarter sessions for the county in which such Parliamentary borough is situate, such expenses shall be allowed by the court of county quarter sessions within the jurisdiction of which the larger portion of such Parliamentary borough in area is situate.

(3) The receipts of any clerk of the peace under the Parliamentary Registration Acts shall be applied in aid of the rate which bears the expenses of such clerk, and if there is more than one such rate, then of each rate in the proportion in which the expenses are borne by such rates.

Repeal of 2 & 3 Will. 4, c. 45, s. 78.

XV. From and after the passing of this Act section seventy-eight of the Act of Parliament passed in the second and third years of the reign of His Majesty King William the Fourth, chapter forty-five, shall be and the same is hereby repealed:

Provided that no person shall be prevented by any other Act from being registered as a Parliamentary voter in respect of his occupation of any chambers or premises in any of the colleges or halls of the Universities of Oxford or Cambridge.

Informations as to persons disqualified by parochial relief.

XVI. Any person registered as a Parliamentary voter in the register of voters for a parish may, by notice in writing delivered

Sect. 16.

Note.

By the Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 11, registrars of births and deaths are entitled to the fees specified in sect. 28 of the Births and Deaths Registration Act. 1874 (37 & 38 Vict. c. 88), *i.e.*, twopence for the list, and a further fee of twopence for every name entered in the list.

Sect. 16.

or sent to the clerk of the guardians for such parish, or for the union containing such parish, require such clerk to send to him a list giving the names and addresses, as appearing in the books of the guardians and their officers, either of all men of full age, or of all persons who have, during the period specified in the notice, received out of the rates administered by such guardians, either parochial relief or out-door parochial relief, and at the time of receiving such relief were recorded as resident in the said parish or union, and the clerk of the guardians, on payment of fees after the rate allowed by the Parliamentary and Municipal Registration Act, 1878, for returns by registrars of births and deaths, shall send the list with such of the said particulars as are specified in the notice, and the relieving officers of the guardians shall give the clerk the information he requires for that purpose, and shall receive from the clerk a reasonable remuneration for so doing, and if any clerk or relieving officer refuses or fails to comply with this section he shall be deemed guilty of a wilful act of commission or omission within the meaning of section ninety-seven of the Parliamentary Registration Act, 1843.

41 & 42 Vict. c. 26.

6 & 7 Vict. c. 18.

[Sects. 17, 18. Repealed by the S. L. R. Act, 1898.]

Definitions.

XIX. In this Act, unless the context otherwise requires,—

The expression "ownership voter" means a person entitled to vote in respect of the ownership of property, whether of freehold, leasehold, or copyhold tenure.

The expression "fifty pounds rental voter" means a person who on the sixth day of December, one thousand eight hundred and eighty-four was registered as a voter for a county in pursuance of section twenty of the Reform Act, 1832, in respect of the occupation of any land or tenement for which he was *bonâ fide* liable to a yearly rent of not less than fifty pounds, and who continues by virtue of section ten of the Representation of the People Act, 1884, to be entitled to be registered as a voter in respect of such occupation.

2 & 3 Will. 4, c. 35.

The expression "occupation voter" means, as regards a Parliamentary county, a person entitled to vote in respect of any qualification conferred by the Representation of the People Act, 1884, and as regards a Parliamentary borough means a person entitled to vote in respect of any qualification conferred by section five of the Representation of the People Act, 1884, or in respect of a household qualification or a lodger qualification as defined by that Act.

The expression "Parliamentary Registration Acts" means the Parliamentary Registration Act, 1843, and the Parliamentary and Municipal Registration Act, 1878, inclusive of any Acts and enactments amending the said Acts, or otherwise relating to revising barristers or to the registration of voters,

6 & 7 Vict. c. 18.

41 & 42 Vict. c. 26.

Sect. 19.

and of any Acts and enactments relating to rating in so far as they are auxiliary to or deal with the registration of voters.

The expression "Parliamentary county" means a county returning a member or members to serve in Parliament, and where a county is divided for the purpose of such return means a division of such county.

The expression "court of county quarter sessions" means the justices in general or quarter sessions assembled for any county at large, or riding, or parts of a county at large having a separate commission of the peace and a separate court of quarter sessions, and includes the justices in general or quarter sessions assembled for the Isle of Ely.

The expression "county quarter sessional area" means the area of the jurisdiction as extended by this Act of any court of county quarter sessions, and includes the Isle of Ely; and save as aforesaid, for the purposes of this Act every liberty, county of a city, or county of a town which for the purposes of Parliamentary elections forms part of any county at large, riding, or parts shall be deemed to be within the jurisdiction of the court of county quarter sessions and clerk of the peace of such county at large, riding, or parts.

The expression "clerk of the peace for a county quarter sessional area" means the clerk of the peace for such county at large, riding, or parts as aforesaid, and includes the clerk of the peace for the Isle of Ely.

Other expressions in this Act have, unless the context otherwise requires, the same meaning as in the Parliamentary Registration Acts.

Extent and short title of Act.

XX. This Act shall not apply to Scotland or Ireland, and may be cited for all purposes as the Registration Act, 1885.

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SCHEDULES.

[The first schedule, containing the list of enactments repealed by the now repealed sect. 17, *ante*, is repealed by the S. L. R. Act, 1898. Such enactments were 6 & 7 Vict. c. 18, s. 40, and schedule (A.); 28 & 29 Vict. c. 36, ss. 4, 5, 12, and schedule (A.); 30 & 31 Vict. c. 102, in part; 31 & 32 Vict. 58, ss. 17, 19.]

[The second and third schedules, containing the precepts of the clerks of the peace and town clerks to the overseers, and forms, are now superseded by the Registration Order, 1895.]

# THE BURIAL BOARDS (CONTESTED ELECTIONS) ACT, 1885.

48 & 49 VICT. CHAP. 21.

An Act to amend the Law with respect to Contested Elections of Burial Boards. [25th June, 1885.]

WHEREAS it is expedient that provision should be made with respect to the payment of expenses incurred in contested elections of burial boards appointed by vestries:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

I. This Act may be cited as the Burial Boards (Contested Elections) Act, 1885. Short title.

II. The reasonable expenses incurred in taking a poll of the ratepayers of any parish or part of a parish on the occasion either of the appointment or re-appointment by the vestry of persons to be the burial board for such parish or part of a parish, or of the filling up by the vestry of any vacancy or vacancies on such burial board, shall be defrayed by the burial board in the same manner as if they were expenses incurred by such burial board in carrying the Burial Acts into execution, and may be included in any certificate to the overseers in respect of the expenses of such burial board. Expenses of polls to be paid by the burial board.

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Sect. 2.

Note.

The expenses of a burial board in carrying the Burial Acts into execution are paid by the overseers out of the poor rate upon the certificate of the burial board (Burial Act, 1852 (15 & 16 Vict. c. 85), s. 19); or in places not separately maintaining their own poor, by an addition to the parish or common rate, or by a separate rate.

In rural parishes burial boards are now replaced by the parish councils (Local Government Act, 1894 (56 & 57 Vict. c. 73), ss. 7 (3), 53 (1)), or by joint committees of two or more parish councils, or by joint committees of one or more parish councils and one or more urban district councils, according to the area under the jurisdiction of the burial board existing prior to the Local Government Act, 1894 (*Ib.* s. 53 (2)).

# THE REDISTRIBUTION OF SEATS ACT, 1885.

48 & 49 VICT. CHAP. 23.

An Act for the Redistribution of Seats at Parliamentary Elections, and for other purposes. [25th June, 1885.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

*Preliminary.*

Short title.

I. This Act may be cited as the Redistribution of Seats Act, 1885.

[Only so much of this Act is printed here as may have some bearing upon the duties of overseers, the qualification of persons entitled to be on the Parliamentary or local government register of electors and consequently entitled to be electors of guardians by the Local Government Act, 1894 (56 & 57 Vict. c. 73), ss. 20 (3), 44 (1); and boundaries.]

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PART II.

SUPLEMENTAL PROVISIONS.

Qualification by occupation of premises in immediate succession in divided borough.

X. The occupation in immediate succession of different premises situate within a Parliamentary borough shall, for the purpose of qualifying a person for voting in any division of such borough in respect of occupation (otherwise than as a lodger), have the same effect, as if all such premises were situate in that division of the borough, in which the premises occupied by such person at the end of the period of qualification are situate.

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As to boroughs divided into divisions.

XIII. Where a Parliamentary borough is divided into divisions, the returning officer of such borough shall be the returning officer for each division, and may, by writing under his hand, appoint a fit person to be his deputy for all or any of the purposes relating to a Parliamentary election in any such division, and anything in relation to a Parliamentary

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Sect. 10. Note.

As to successive occupation of householders, see the Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 26; of lodgers, see the Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 6.

Sect. 13.

election authorized or required to be done by, to, or before the returning officer (except the fixing of the day for taking the polls), may be done by, to, or before the returning officer himself or such deputy.

(2) Every such deputy shall, in so far as he acts as returning officer, be deemed to be included in the expression "returning officer" within the meaning of the law relating to Parliamentary elections.

(3) For the purpose of determining the distance of the residence of any voter, and for all purposes of and incidental to the registration of voters in a Parliamentary borough divided into divisions, and for the purpose of the enactments respecting the division of any such borough into polling districts, all the divisions shall be deemed to form the same Parliamentary borough:

Provided that the lists and register of voters for the borough shall be framed, printed, and arranged in parts so as to correspond to the divisions thereof; and the voters in each division shall be numbered in a separate series.

(4) In a borough divided into divisions, the election for two or more of such divisions shall be deemed to be the same election within the meaning of the enactments relating to personation and to voting, and the question which may be asked of voters at the poll shall be, "Have you already voted here or elsewhere at this election for the borough of either in this or in any other division?"

(5) Subject to the provisions of this Act, where any Parliamentary borough is divided into divisions, the members for each division of such borough shall be elected by the persons registered in such division as voters for the borough, and the nomination and other proceedings at Parliamentary elections for such division shall be conducted in the same manner as if such division were a separate constituency, and the law relating to Parliamentary elections shall apply to each division as if it were a separate Parliamentary borough.

Registration of freemen in divided boroughs.

XIV.—(1) In a Parliamentary borough divided into divisions persons registered as freemen shall be entitled to vote—

(*a.*) If their place of abode is in the borough, then in the division in which such place of abode is situate; and

(*b.*) If their place of abode is not in the borough, then in the division to which such persons (in this section referred to as non-resident freemen) are allotted by the revising barrister,

and shall not be entitled in respect of the qualification of freeman to vote elsewhere than in such division, and the registration of voters shall be conducted and the register of voters arranged so as to give effect to this enactment.

Sect. 14.

(2) The non-resident freemen shall be allotted in equal numbers so nearly as may be among the several divisions of the borough as follows:—

(*a.*) At the first revision after the passing of this Act the revising barrister shall first settle by lot the order of the divisions of the borough for the purpose of the allotment, and then allot among such divisions the non-resident freemen, allotting to the division first in order the freemen whose names are earliest in alphabetical order, and so on with the other divisions and freemen;

(*b.*) At every subsequent annual revision at which any non-resident freemen not on the then existing register are registered, the revising barrister shall allot them among the divisions in such manner as may, so nearly as may be, maintain an equal number of non-resident freemen in each division, and shall allot them according to alphabetical order by allotting those whose names are the earliest in alphabetical order to the first division (according to the order settled as aforesaid) to which at that revision any freeman is to be allotted.

* * * * *

Detached parts of parishes.

XVIII. Any such constitution of new parishes or division or alteration of boundaries of parishes made for poor law purposes by or in pursuance of any Act of Parliament, as has come into operation on or before the twenty-sixth day of March, one thousand eight hundred and eighty-five, and any alteration of the boundary of a county which is incidental to such constitution, division, or alteration, shall have effect also for all purposes of the law relating to Parliamentary elections for any future Parliament.

* * * * *

Marking of boundaries where they do not follow well-defined lines.

XX.—(1) Where the boundary of a Parliamentary borough or division of a borough does not follow the boundary of a parish or township, or other well-defined line of demarcation, the local authority having power to divide such borough into polling districts shall, as soon as may be after the passing of this Act, cause the several points of deviation of the boundary to be marked by means of boundary stones, posts, or other marks, which shall from time to time be maintained and renewed by such local authority.

(2) For the purposes of this section, any officer authorized

Sect. 20.

Note. Sub-s. (1).

The local authority having power to divide a borough into polling districts is specified in the Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 34.

in that behalf by the local authority, may, by himself and his workmen, enter upon any lands, doing as little damage as possible, and making compensation for such damage, the amount of such damage to be determined in case of dispute in manner provided by the Lands Clauses Consolidation Acts, with respect to disputed compensation for land. Sect. 20.

(3) All expenses properly incurred by a local authority in pursuance of this section shall be defrayed as part of the expenses of the town clerk in the registration of voters for the Parliamentary borough.

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# THE LOCAL LOANS SINKING FUNDS ACT, 1885.

48 & 49 VICT. CHAP. 30.

An Act to amend the Local Loans Act, 1875, as regards the establishment of a Sinking Fund. [22nd July, 1885.]

WHEREAS it is expedient to amend the Local Loans Act, 1875, as regards the provision of sinking funds for the discharge of local loans : 38 & 39 Vict. c. 83.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

I. This Act may be cited for all purposes as the Local Loans Sinking Funds Act, 1885. Short title.

II. This Act shall not extend to Scotland or Ireland. Limits of Act.

[Sect. 3. *Commencement of Act:* This section is repealed by the S. L. R. Act, 1898.]

IV. Notwithstanding anything contained in the Local Loans Act, 1875, every loan borrowed in manner provided by that Act may be discharged by the establishment of a sinking fund as therein mentioned, notwithstanding that a sinking fund may not have been prescribed by the special Act authorizing the loan. Discharge of loans by sinking funds.

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This Act amends sect. 13 of the Local Loans Act, 1875 (38 & 39 Vict. c. 83), by repealing in effect the words in the fourth paragraph thereof, "*Where a sinking fund is prescribed, but not otherwise.*" Sect. 4. Note.

# THE MEDICAL RELIEF DISQUALIFICATION REMOVAL ACT, 1885.

48 & 49 VICT. CHAP. 46.

An Act to prevent Medical Relief disqualifying a person from voting. [6th August, 1885.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

Short title.

I. This Act may be cited as the Medical Relief Disqualification Removal Act, 1885.

Medical relief not to disqualify.

II.—(1) Where a person has in any part of the United Kingdom received for himself, or for any member of his family, any medical or surgical assistance, or any medicine at the expense of any poor rate, such person shall not by reason thereof be deprived of any right to be registered or to vote either—

(*a.*) As a Parliamentary voter; or

(*b.*) As a voter at any municipal election; or

(*c.*) As a burgess; or

(*d.*) As a voter at any election to an office under the provisions of any statute;

but nothing in this section shall apply to the election—

(*a.*) Of any guardian of the poor; or

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Sect. 2.

Note.

It is to be observed that this Act does not remove the disqualification of any persons voting or claiming to vote at an election of guardians; disqualification for voting at such election by reason of the receipt of poor relief is imposed by the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 4.

See the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 46 (1), for the disqualifications for being elected a guardian.

Relief given to or on account of a wife, or to or on account of any child or children under the age of sixteen, not being blind or deaf and dumb, is considered as given to the husband of such wife, or father of such child or children (4 & 5 Will. 4, c. 76, s. 56); but relief given to a father is not relief to a son of such father (*Reg.* v. *Ireland*, L. R. 3 Q. B. 130; 37 L. J. Q. B. 73; 17 L. T. (N. S.) 466; 16 W. R. 358). Employment by the parish or union in labour at a rate of wages inferior to the wages that would usually be paid by individuals is a receipt of parochial relief (*Kemp's Case*, 1 Perry & Knapp, 128; *Taylor's Case*, 1 Pow. Rod. & Dew. 156; *Magarrill* v. *Whitehaven, Overseers*, 16 Q. B. D. 242; 55 L. J. Q. B. 38; 53 L. T. 667; 34 W. R. 275; 49 J. P. 743).

(*b.*) Of any member of any parochial board in Scotland; or Sect. 2.

(*c.*) Of any other body acting in the distribution of relief to the poor from the poor rate.

(2) Every person shall be qualified to be registered as a voter and to vote as aforesaid who would be so qualified if the provisions of this Act had come into force on the fifteenth day of July one thousand eight hundred and eighty-four.

[Sect. 3. Provision for registration in the year 1885: The effect of this section expired with the year 1885.]

IV. The term "medical or surgical assistance" in this Act shall include all medical and surgical attendance, and all matters and things supplied by or on the recommendation of the medical officer having authority to give such attendance and recommendation at the expense of any poor rate. Definition of medical and surgical assistance.

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# THE CRIMINAL LAW AMENDMENT ACT, 1885.

48 & 49 VICT. CHAP. 69.

An Act to make further provision for the Protection of Women and Girls, the suppression of brothels, and other purposes. [14th August, 1885.]

* * * * *

[I.] This Act may be cited as the Criminal Law Amendment Act, 1885. Short title.

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[The section of this Act relating to the suppression of brothels is printed here in consequence of the duties cast upon overseers by the Disorderly Houses Acts, 1751 and 1818, which are incorporated in or extended by this section.]

## PART II.

*Suppression of Brothels.*

XIII. Any person who—

(1) Keeps or manages or acts or assists in the management of a brothel, or

Summary proceedings against brothel keeper, &c.

Sect. 4.

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Attendance on a man's wife during her confinement by an uncertificated midwife who was sent to her and paid by the relieving officer after an order had been made by the guardians authorizing the relieving officer to give her an order for the attendance of a medical man, was held to be "medical assistance" within the meaning of this section (*Honeybone* v. *Hambridge*, 18 Q. B. D. 418; 56 L. J. Q. B. 46; 56 L. T. 365; 35 W. R. 520; 51 J. P. 103).

Note.

Sect. 13.

(2) Being the tenant, lessee, or occupier of any premises, knowingly permits such premises or any part thereof to be used as a brothel or for the purposes of habitual prostitution, or

(3) Being the lessor or landlord of any premises, or the agent of such lessor or landlord, lets the same or any part thereof with the knowledge that such premises or some part thereof are or is to be used as a brothel, or is wilfully a party to the continued use of such premises or any part thereof as a brothel,

shall on summary conviction in manner provided by the Summary Jurisdiction Acts be liable—

(1) To a penalty not exceeding twenty pounds, or, in the discretion of the court, to imprisonment for any term not exceeding three months, with or without hard labour, and

(2) On a second or subsequent conviction to a penalty not exceeding forty pounds, or, in the discretion of the court, to imprisonment for any term not exceeding four months, with or without hard labour ;

and in case of a third or subsequent conviction such person may, in addition to such penalty or imprisonment as last aforesaid, be required by the court to enter into a recognizance, with or without sureties, as to the court seems meet, to be of good behaviour for any period not exceeding twelve months, and in default of entering into such recognizances, with or without sureties (as the case may be), such person may be imprisoned for any period not exceeding three months, in addition to any such term of imprisonment as aforesaid.

Any person on being summarily convicted in pursuance of this section may appeal to a court of general or quarter sessions against such conviction.

25 Geo. 2, c. 36.

58 Geo. 3, c. 70.

The enactments for encouraging prosecutions of disorderly houses contained in sections five, six, and seven of the Act passed in the twenty-fifth year of the reign of King George the Second, chapter thirty-six, as amended by the enactment contained in section seven of the Act passed in the fifty-eighth year of the reign of King George the Third, chapter seventy, shall, with the necessary modifications, be deemed to apply to prosecutions under this section, and the said enactments shall, for the purposes of this section, be construed as if the prosecution in such enactments mentioned included summary proceedings under this section as well as a prosecution on indictment.

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# THE BURIAL OF DROWNED PERSONS ACT, 1886.

49 & 50 VICT. CHAP. 20.

An Act to amend the Law in respect to the Discovery and Interment of Persons Drowned. [4th June, 1886.]

WHEREAS an Act was passed in the forty-eighth year of the reign of King George the Third, intituled "An Act for providing suitable Interment in Churchyards or Parochial Burying Grounds in England for such dead human bodies as may be cast on shore from the sea in cases of wreck or otherwise" (in this Act called "the principal Act"), and it is expedient to amend the same and make it applicable to the discovery and interment of dead human bodies cast on shore from any tidal or navigable waters, or found in any such tidal or navigable waters and brought on shore: 48 Geo. 3, c. 75.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Extension of provisions of principal Act.

I. The provisions of the principal Act shall be deemed to extend and apply not only to dead human bodies found in or cast on shore from the sea by wreck or otherwise, but also to any dead human body or dead human bodies found in or cast on shore from any tidal or navigable waters, and to all such body or bodies found floating or sunken in any such waters and brought on to the shore or bank thereof: Provided, that notice of the finding of any such body or bodies shall be deemed to be duly given in pursuance of the principal Act if given to a police constable within the time specified in that Act, and such constable shall forthwith communicate the same to the parish officers mentioned in the said Act.

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Sect. 1.

Note.

This Act was passed in consequence of the decisions in *Woolwich, Churchwardens*, v. *Robertson*, 6 Q. B. D. 654; 50 L. J. M. C. 87; 44 L. T. 747; 29 W. R. 892; 45 J. P. 766; and *Reg.* v. *Edwards*, 45 J. P. 237, by which it was determined that the principal Act, 48 Geo. 3, c. 75, did not apply to the case of bodies cast ashore from or found in tidal and navigable waters other than the open sea.

# THE IDIOTS ACT, 1886.

## 49 & 50 VICT. CHAP. 25.

An Act for giving facilities for the Care, Education, and Training of Idiots and Imbeciles. [25th June, 1886.]

WHEREAS it is expedient to make provision for the admission into hospitals, institutions, and licensed houses of idiots and imbeciles, and for their care, education, and training therein :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short title.

I. This Act may be cited as the Idiots Act, 1886.

Extent of Act.

II. This Act shall not extend to Scotland or Ireland.

[Sect. 3. *Commencement:* Repealed by the S. L. R. Act, 1898.]

Hospitals, institutions, and licensed houses for idiots and imbeciles.

IV. An idiot or imbecile from birth or from an early age may, if under age, be placed by his parents or guardians or by any person undertaking and performing towards him the duty of a parent or guardian, and may lawfully be received into, and until of full age detained in, any hospital, institution, or licensed house registered under this Act for the care, education, and training of idiots or imbeciles upon the certificate in writing of a duly qualified medical practitioner in the Form One in the schedule that the person to whom such certificate relates is an idiot or imbecile, capable of receiving benefit from such hospital, institution, or licensed house, accompanied by a statement in the Form Two in the schedule signed by the parent or guardian of the idiot or imbecile, or the person undertaking or performing towards him the duty of a parent or guardian.

Retention and admission of idiots and imbeciles after full age.

V. Any idiot or imbecile who has while under age been received under this Act into any hospital, institution, or licensed house registered under this Act may, with the consent in writing of the Commissioners in Lunacy, be retained

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**Sect. 4. Note.**

"Idiot" and "imbecile" do not include "lunatic." (See sect. 17, *infra*.)

The medical practitioner, to be duly qualified, must be registered under the Medical Act, 1858. (See the Medical Act, 1858 (21 & 22 Vict. c. 90), s. 37, as amended by the Medical Acts Amendment Act, 1860 (23 & 24 Vict. c. 7), s. 3.)

By the Lunacy Act, 1890 (53 & 54 Vict. c. 5), s. 241, powers are given to the local authority to provide separate asylums for idiots.

Sect. 5.

therein after he is of full age, and an idiot or imbecile from birth or from an early age may be received into any hospital, institution, or licensed house registered under this Act after he is of full age upon the certificate in writing of a duly qualified medical practitioner in the Form One in the schedule, accompanied by a statement in the Form Two in the schedule signed by the parent or guardian of the idiot or imbecile, or the person undertaking or performing towards him the duty of a parent or guardian.

Order of discharge by Commissioners in Lunacy.

VI. The commissioners may at any time, by order, direct any person of full age retained in any hospital, institution, or licensed house registered under this Act to be discharged therefrom, and such order shall specify the reason or reasons for such discharge and the date thereof.

Registration of hospitals, institutions, and licensed houses under this Act.

VII. The managing committee or the principal officer of every hospital, institution, or licensed house in which idiots or imbeciles are intended to be received under this Act shall apply to the commissioners to have the hospital, institution, or licensed house registered in the office of the commissioners, and the commissioners, if satisfied upon inquiry that the hospital, institution, or licensed house is a proper one to be registered, shall issue a certificate of registration accordingly; and no idiot or imbecile shall be received into any hospital, institution, or licensed house, under this Act, until the same hospital, institution, or licensed house has been duly registered.

Provision for existing hospitals, institutions, and licensed houses for idiots or imbeciles.

VIII. Any hospital, institution, or licensed house which at the passing of this Act is devoted exclusively to the care, education, and training of idiots or imbeciles may be registered under this Act, and all idiots and imbeciles, lawfully retained therein at the passing of this Act may continue to be so retained without further certification.

Notice of reception to be sent to Commissioners in Lunacy.

IX. When any idiot or imbecile is first received into a hospital, institution, or licensed house registered under this Act the superintendent or principal officer thereof shall, within fourteen days, certify in writing under his hand to the commissioners in the Form Three in the schedule the fact and time of his reception, specifying his name and age and the names and addresses of the persons placing him in such hospital, institution, or licensed house, and that he is alleged to be capable of deriving benefit from the treatment to be received therein.

Notice of death or discharge.

X. When any idiot or imbecile dies in any hospital, institution, or licensed house registered under this Act, or is discharged

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Sects. 9 & 10. Note.

For the penalty attaching to default in sending notices under these sections see the Lunacy Act, 1890 (53 Vict. c. 5), s. 320.

Sect. 10.

therefrom, the superintendent or principal officer thereof shall forthwith notify in writing such death or discharge to the commissioners.

Certain provisions of Lunacy Acts not to apply to this Act.

XI. The provisions of any Act relating to the registration and regulation of hospitals, asylums, and licensed houses for the reception of lunatics, to the orders, certificates, or reports necessary for the reception, detention, or treatment of lunatics, and to the care, treatment, and visitation of lunatics, and the books to be kept and the reports to be made concerning lunatics respectively, shall not apply to any hospital, institution, or licensed house registered under this Act, or to any idiot or imbecile received or to be received therein under the provisions of this Act.

Inspection by commissioners.

XII. The commissioners shall at least one in every twelve months visit and inspect every hospital, institution, and licensed house registered under this Act, and all the children and other persons under treatment therein.

Medical journal to be kept.

XIII. A medical journal shall be kept in every hospital, institution, and licensed house registered under this Act, in such form as the commissioners may from time to time direct.

Residence of medical practitioner.

XIV. In the case of any hospital, institution, or licensed house registered under this Act, the commissioners may by order in writing direct that a duly qualified medical practitioner shall reside therein.

Grants of money to guardians of the poor.

XV. Nothing in this Act shall operate to deprive the guardians of the poor of any union of the power of sending pauper idiots or imbeciles to hospitals, institutions, and licensed houses registered under this Act, or from receiving in respect of such idiots or imbeciles such sums of money as shall from time to time be granted by Parliament towards the maintenance and care of pauper lunatics, as if the same idiots and imbeciles were pauper lunatics.

Power to grant superannuation allowance.

XVI. The committee of management of any hospital, institution, or licensed house registered under this Act may grant to any officer or servant who is incapacitated by confirmed illness, age, or infirmity, or who has been an officer or servant in the

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Sect. 15.

Note.

By the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 13, guardians may send pauper idiots to asylums, &c., maintained at the charge of the county rate or by public subscription.

Since the Local Government Act, 1888, monies are no longer granted by Parliament towards the maintenance of pauper lunatics; but by sect. 24 (2) (*f*), and sect. 24 (5) of that Act, payments are now made by the county council in lieu of Parliamentary grants.

hospital, institution, or house for not less than fifteen years and is not less than fifty years old, such superannuation allowance, not exceeding two-thirds of the salary, with the value of the lodgings, rations, or other allowances enjoyed by the superannuated person, as the committee think proper. Sect. 16.

XVII. In this Act, if not inconsistent with the context,— Definition.

"Commissioners" means the Commissioners in Lunacy for the time being. Commissioners.

"Idiots" or "imbeciles" do not include lunatics. Idiots or imbeciles.

"Lunatic" does not mean or include idiot or imbecile. Lunatic.

"Hospital" and "institution" mean any hospital or institution or part of a hospital or institution (not being an asylum for lunatics) wherein idiots and imbeciles are received and supported wholly or partly by voluntary contributions, or by any charitable bequest or gift, or by applying the excess of payments of some patients for or towards the support, provision, or benefit of other patients. Hospital and institution.

"Licensed house" means any house licensed by the Commissioners in Lunacy, or by the justices of any county or borough, for the reception, care, education, and training of idiots and imbeciles. Licensed house.

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THE SCHEDULE.

FORM 1.

*Form of Medical Certificate.*

I, the undersigned *A. B.*, a person registered under the Medical Act, 1858, and in the actual practice of the medical profession, certify that I have carefully examined *C. D.*, an infant [*or* of full age], now residing at , and that I am of opinion that the said *C. D.* is an idiot [*or* has been imbecile from birth, *or* for years past, *or* from an early age], and is capable of receiving benefit from [the institution (describing it)], registered under the Idiots Act, 1886.

(Signed)

Dated (full postal address).

FORM 2.

*Form of Statement to accompany Medical Certificate.*

[If any particulars in this statement be not known, the fact to be so stated.]

Name of patient, with Christian name at length.

Sex and age.

When and where previously under care and treatment.

Schedule.

In any asylum or institution.

Whether subject to epilepsy.

Whether dangerous to others.

I certify that to the best of my knowledge the above particulars are correctly stated.

(Signed) Name and full postal address.

[To be signed by the parent or guardian of the idiot or imbecile, or the person undertaking and performing towards him the duty of a parent or guardian.]

FORM 3.

*Form of Certificate of Reception.*

I hereby certify that , aged , was admitted into on the day of , 18 , on the request of , of , and , of , and that he [*or* she] is alleged to be capable of deriving benefit from the treatment he [*or* she] will receive herein.

*A. B.*

Superintendent *or* Principal Officer.

Dated this day of , 18 .

To the Commissioners in Lunacy.

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# THE ALLOTMENTS ACT, 1887.

50 & 51 VICT. CHAP. 48.

An Act to facilitate the provision of Allotments for the Labouring Classes. [16th September, 1887.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short title.

I. This Act may be cited as the Allotments Act, 1887.

Duty of sanitary authority to

II.—(1) On a representation in writing to the sanitary authority of any urban or rural district by any six registered

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Sect. 1. Note.

Very little of this Act has any direct relation to the Poor Law ; but as sect. 7 (2) and sect. 13, which do so relate, would not be easily intelligible without reference to the rest of the Act, it is printed here in full. It is extended in a manner that does not in any way affect the Poor Law by the Allotments Act, 1890 (53 & 54 Vict. c. 65). For full annotations to both of these Acts see Brooke Little's "Law of Allotments," 2nd edit.

Sect. 2. Note. Sub-s. (1).

For the meaning of the word "parish" see sect. 14 (2), *post*.

Sect. 2.

acquire land for allotments.

Parliamentary electors or ratepayers resident, in the case of an urban district, in that district, and, in the case of a rural district, in some parish in that district, that the circumstances of the urban district or parish are such that it is the duty of the sanitary authority to take proceedings under this Act therein, the sanitary authority shall take such representation into consideration.

If the sanitary authority of any urban or rural district are of opinion, either after inquiry made in consequence of such representation or otherwise, that there is a demand for allotments for the labouring population in such urban district, or in any parish in such rural district, and that such allotments cannot be obtained at a reasonable rent and on reasonable conditions by voluntary arrangement between the owners of land suitable for such allotments, and the applicants for the same, the sanitary authority, subject to the provisions of this Act, shall by purchase or hire acquire any suitable land which may be available, whether within or without their district or the said parish, adequate to provide a sufficient number of allotments, and shall let such land in allotments to persons belonging to the labouring population resident in the said district or parish and desiring to take the same.

(2) A sanitary authority shall not under this Act acquire land for allotments save at such price or rent that in the opinion of the sanitary authority all expenses, except such expenses as are incurred in making roads to be used by the public, incurred by the sanitary authority in acquiring the land and otherwise in relation to the allotments, may reasonably be expected to be recouped out of the rents obtained in respect thereof.

For the purpose of this section, the expression "reasonable rent" means the rent, exclusive of rates, taxes, and tithe rent-charge which a person taking an allotment might reasonably be expected to pay, taking one year with another, to a landlord, having regard to the value of similar land in the neighbourhood, to the extent and situation of the allotment, to the expenses of adapting the land to the purposes of the allotment, and to the repairs and other outgoings payable by the landlord, and to the cost and risk of collecting the rents of, and otherwise managing allotments.

Acquisition of land for purpose of Act. 38 & 39 Vict. c. 55.

Sect. 2.

III.—(1) For the purposes of the purchase of land by agreement by a sanitary authority for allotments, section one hundred and seventy-eight of the Public Health Act, 1875,

Note. Sub-s. (2).

This sub-section is incorporated with sect. 9 of the Local Government Act, 1894 (56 & 57 Vict. c. 73), to apply to cases where it is desired to acquire land for a parish council either for the purpose of allotments or any other purpose.

Sect. 3.

8 & 9 Vict. c. 18.

and the Lands Clauses Consolidation Act, 1845, and the Acts amending the same, shall be incorporated with this Act, except the provisions with respect to the purchase and taking of land otherwise than by agreement, and with respect to the provision to be made for affording access to the special Act.

(2) If a sanitary authority are unable by hiring or purchase by agreement to acquire suitable land sufficient for allotments under this Act for any district or parish at a reasonable price or rent and subject to reasonable conditions, such authority may petition the county authority of the county in which the district or parish is situate, and the county authority (after such inquiry and procedure as provided in the sections hereinafter incorporated in this Act) may make a provisional order authorizing the sanitary authority to put in force, as respects the land mentioned in the order, the provisions of the Lands Clauses Consolidation Act, 1845, and the Acts amending the same with respect to the purchase and taking of land otherwise than by agreement.

(3) The Local Government Board, on the application of any county authority, shall introduce into Parliament a Bill confirming provisional orders made under this Act by such county authority, and the sanitary authority petitioning for the order shall be considered as the promoters of such order.

(4) For the purpose of the purchase of land under this section otherwise than by agreement, sections one hundred and seventy-six, two hundred and ninety-six, and two hundred and ninety-seven of the Public Health Act, 1875, shall, so far as consistent with the tenour of this Act, be incorporated with this Act, and apply as if they were herein re-enacted, with the substitution of "the county authority" for "the Local Government Board," and of "any officer of the county authority appointed for the purpose of an inquiry" for "inspectors of the Local Government Board."

Provided that—

(*a.*) Any question of disputed compensation shall be referred to the arbitration of a single arbitrator appointed by the parties, or if the parties do not concur in the appointment of a single arbitrator, then, on the application of either of them, by the Local Government Board, and the remuneration to be paid to the arbitrator appointed by the Local Government Board shall be fixed by that Board :

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Sect. 3. Note. Sub-s. (2).

The county authority is now the county council. (See sect. 16, *infra*.) In the case of a county borough, however, the powers and duties of the county authority under this Act are to be exercised and performed by the Local Government Board. (See Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 34 (7).)

Sub-s. (3).

This sub-section is impliedly repealed by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 9 (7).

Sect. 3.

(*b.*) If an arbitrator appointed for the purposes of this Act dies or becomes incapable to act before he has made his award, or fails to make his award within two months after he is appointed, his appointment shall determine, and the determination of the compensation shall be referred to another aribitrator appointed in like manner as if no arbitrator had been previously appointed: Provided always, that the same arbitrator may be re-appointed:

(*c.*) An arbitrator appointed under this section shall be deemed to be an arbitrator within the meaning of the Lands Clauses Consolidation Act, 1845, and the Acts amending the same, and the provisions of those Acts with respect to an arbitration shall apply accordingly; and, further, the arbitrator, notwithstanding anything in the said Acts, shall determine the amount of the costs and shall have power to disallow as costs in the arbitration the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers to have been incurred unnecessarily.

(5) In construing for the purposes of this section any section or Acts incorporated with this section, this Act, together with any Act confirming a provisional order under this section, shall be deemed to be the special Act, and the sanitary authority shall be deemed to be the local authority or the promoters of the undertaking, as the case requires, and the word "land" shall have the same meaning as in this Act.

(6) Where land is purchased by a sanitary authority under this Act otherwise than by agreement, the following provisions shall apply:

(*a.*) The county authority shall not make a provisional order for purchasing any park, garden, pleasure-ground, or other land required for the amenity or convenience of any dwelling-house, or any land the property of a railway or canal company which is or may be required for the purposes of their undertaking:

(*b.*) The county authority shall, in making a provisional order for purchasing land, have regard to the extent of land held in the neighbourhood by any owner and to the convenience of other property belonging to the same owner, and shall so far as is practicable avoid taking an undue or inconvenient quantity of land from any one owner.

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Sect. 3. Note. Sub-s. (5)—(8).

The above subsections (5), (6), (7), (8), are incorporated with sect. 9 of the Local Government Act, 1894, and are applicable with the necessary adaptations to any proceeding under the Allotments Acts, 1887 and 1890, in which an order is made for the purchase of land otherwise than by agreement.

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(7) For the purpose of the hiring of land by a sanitary authority for allotments, any person or body of persons or body corporate authorized to sell land to the sanitary authority for the purposes of this Act may, without prejudice to any other power of leasing, lease land to the sanitary authority, without any fine or premium, for a term not exceeding thirty-five years.

(8) The county authority shall not make a provisional order for purchasing any right to coal or metalliferous ore.

[Sect. 4. *Costs of a bill for confirming a provisional order to be awarded in certain cases:* This section is repealed by implication by sect. 9 of the Local Government Act, 1894, which substitutes the procedure in that Act for Bills confirming provisional orders.]

Improvement and adaptation of land for allotments.

V. The sanitary authority may improve any land acquired by them under this Act, and adapt the same for letting in allotments, by draining, fencing, and dividing the same, acquiring approaches, making roads, and otherwise, as they think fit, and may from time to time do such things as may be necessary for maintaining such drains, fences, approaches, and roads, or otherwise for maintaining the allotments in a proper condition.

Management of allotments.

VI.—(1) Subject to the provisions of this Act, the sanitary authority may from time to time make, revoke, and vary such regulations as appear to be necessary or proper for regulating the letting of allotments under this Act, and for preventing any undue preference in the letting thereof, and generally for carrying the provisions of this Act into effect; and such regulations may define the persons eligible to be tenants of such allotments, and the notices to be given for the letting thereof, and the size of the allotments, and the conditions under which they are to be cultivated, and the rent to be paid for them. Provided that all such regulations shall make provision for reasonable notice to be given to a tenant of any allotment of the determination of his tenancy. Provided also, that all regulations made under this section shall not be of any force unless and until they have been confirmed by the Local Government Board, in like manner and subject to the like provisions as in the case of bye-laws under the Public Health Act, 1875.

38 & 39 Vict. c. 55.

(2) All regulations for the time being in force under this section shall be binding on all persons whatsoever; and the sanitary authority shall cause them to be from time to time made known, in such manner as the sanitary authority think fit, to all persons interested, and shall cause a copy thereof to be given gratis to any inhabitant of the district or parish demanding the same.

(3) Subject to the provisions of this Act, the sanitary authority may from time to time appoint, and when appointed, remove allotment managers of land acquired under this Act for allotments, and such allotment managers shall consist either

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partly of members of such authority and partly of other persons, or wholly of other persons, so that in either case such other persons be persons residing in the locality and contributing to the rate out of which the expenses under this Act are paid.

(4) The proceedings and powers of allotment managers shall be such as, subject to the provisions of this Act, may be prescribed from time to time by the sanitary authority; the allotment managers may be empowered by the sanitary authority to do anything in relation to the management of such allotments which the sanitary authority are authorized to do, and to incur expenses to such amount as the sanitary authority prescribe, and any expenses properly so incurred shall be deemed to be expenses of the sanitary authority under this Act.

Provisions as to letting and use of allotments.

VII.—(1) The rents of the allotments shall be fixed at an amount not less than such as may reasonably be expected to ensure the sanitary authority from loss; but in calculating such loss any expenses incurred in an unsuccessful attempt to acquire land for allotments shall be excluded and, subject as aforesaid, such rents may be from time to time charged as are reasonable, having regard to the agricultural value of the land, and not more than a quarter's rent shall be required to be paid in advance in any case where it is deemed necessary by the sanitary authority to require the payment of rent in advance.

(2) The sanitary authority shall, for the purposes of all rates, taxes, and tithe rentcharge, be deemed to be the occupiers of the allotments which are let, but they shall cause the sums from time to time paid by way of rates, taxes and tithe rentcharge in respect of the allotments to be apportioned among them, and cause the sum so apportioned in respect of each allotment to be certified to the tenant thereof, and such sum shall be added to the rent otherwise payable by the said tenant in respect of such allotment, and shall be deemed to be part of such rent, and be recoverable accordingly: Provided always, that for the purposes of the Parliamentary franchise, and the municipal and all other local franchises, the tenants shall be deemed to be the occupiers, and such rates to have been paid by them, notwithstanding the provisions herein-before contained.

(3) One person shall not hold any allotment or allotments acquired under this Act exceeding one acre, and an allotment shall not be sub-let.

(4) Provided that if at any time any allotment cannot be let in accordance with the provisions of this Act and the regulations, the same may be let to any person whatever at the best annual rent which can be obtained for the same, without any premium

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Sect. 7. Note. Sub-s. (2).

By the Allotments Rating Exemption Act, 1891 (54 & 55 Vict. c. 33), an allotment, if not exceeding two acres, is to be rated and assessed in the same manner as "woodlands" in sects. 211 and 230 of the Public Health Act, 1875 (38 & 39 Vict. c. 55).

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or fine, and on such terms as may enable the sanitary authority to resume possession thereof within a period not exceeding twelve months if it should at any time be required to be let under the provisions aforesaid.

(5) No building other than a toolhouse, shed, greenhouse, fowlhouse, or pigstye shall be erected on any part of any allotment, and if any building other than as aforesaid is so erected, the sanitary authority shall forthwith pull down such building and sell and dispose of the materials thereof, and the proceeds of the sale shall be applicable in like manner as the rent of the allotment. If any building so allowed to be erected is erected upon an allotment, then at the end of the tenancy neither the sanitary authority nor the incoming tenant shall be bound to take any such building or pay any compensation therefor, but the outgoing tenant shall be at liberty, before the expiration of his tenancy, to remove the same, and, if he fails so to do, the sanitary authority may pull down the building and dispose of the materials, and apply the proceeds in like manner as if it were a building prohibited to be erected.

(6) A tenant of an allotment may, before the expiration of his tenancy, remove any fruit and other trees and bushes planted or acquired by him, for which he has no claim for compensation.

Recovery of rent and possession of allotments.

VIII.—(1) The rent for an allotment let in pursuance of this Act, and the possession of such allotment in the case of any notice to quit, or failure to deliver up possession of the same as required by law, may be recovered by the sanitary authority as landlords, in the like manner as in any other case of landlord and tenant.

(2) If the rent for any allotment is in arrear for not less than forty days, or if it appears to the sanitary authority that the tenant of an allotment not less than three months after the commencement of the tenancy thereof has not duly observed the regulations affecting such allotment made by or in pursuance of this Act, or is resident more than one mile out of the district or parish for which the allotments are provided, the sanitary authority may serve upon the tenant, or if he is residing out of the district or parish, leave at his last known place of abode in the district or parish, or fix in some conspicuous manner on the allotment, a written notice determining the tenancy at the expiration of one month after the notice has been so served or affixed, and thereupon such tenancy shall be determined accordingly: Provided that in every such case the sanitary authority in default of agreement between the incoming and outgoing tenant shall on demand pay to the tenant whose tenancy is so determined any compensation due to him as an outgoing tenant; and such compensation shall be assessed by an arbitrator appointed by the sanitary authority, or if the tenant so elect, either by an arbitrator appointed under the Allot-

ments and Cottage Gardens Compensation for Crops Act, 1887, or by a reference under the Agricultural Holdings (England) Act, 1883. Sect. 8. 50 & 51 Vict. c. 26. 46 & 47 Vict. c. 61.

(3) Upon the recovery of an allotment from any tenant, the court or justice directing the recovery may stay delivery of possession until payment of the compensation, if any, due to the outgoing tenant has been made or secured to the satisfaction of the court or justice.

Election of allotment managers.

IX.—(1) Where allotments have been provided under this Act for a parish in any rural district, a petition to the sanitary authority may be presented by a number of the electors of allotment managers in such parish, not being less than one-sixth of the whole number of such electors, praying for the election of allotment managers in such parish, and thereupon the sanitary authority shall order such election, and the allotment managers so elected shall be the allotment managers of the allotments in such parish in lieu of allotment managers appointed by the sanitary authority, who, on an election under this Act, shall cease to hold office.

(2) The first election shall be held on such day as may, subject to the regulations hereafter mentioned, be fixed by the said authority.

(3) The number of allotment managers in each case shall be such (not being less than three nor more than five) as the sanitary authority may fix, and the quorum shall be three, or, if the number of managers is less than five, be two.

(4) The allotment managers shall retire triennially on such day as may be prescribed by the regulations hereinafter mentioned, and the allotment managers first elected shall retire on the day for retirement which occurs next after the expiration of three years after the day fixed for their election.

(5) Any casual vacancy among the allotment managers which occurs by death, resignation, disqualification, or otherwise, may, if there remains a quorum of allotment managers, be filled up by such managers, but the person elected to fill the vacancy shall hold office only for the same time as the vacating manager would have done.

(6) If at any time by reason of a failure of election, either by electors or allotment managers, or of any other cause, there is no allotment manager, or no quorum of allotment managers in any parish, the sanitary authority shall appoint allotment managers under this Act in that parish, and shall continue to appoint the same until another petition for the election of allotment managers is presented under this section.

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Sect. 9. Note.

In a rural parish having a parish council, that council will, in accordance with the provisions of the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 6 (4), exercise and perform the duties of allotment managers under this Act, and no election will be held under this section.

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(7) The electors of allotment managers shall be the Parliamentary electors in the parish, that is to say, the persons registered in any list of Parliamentary electors for the parish as entitled to vote at an election of a member to serve in Parliament, and an elector shall not give more than one vote for any candidate nor vote for more candidates than the number to be elected.

(8) The election of allotment managers shall be held at such time, and in such manner, and in accordance with such regulations as the Local Government Board may from time to time by order prescribe; and the Local Government Board may make regulations respecting the duties of the returning officer, and the expenses of the election, and may do and make regulations respecting all such things as appear to them necessary or proper for carrying into effect this section, whether preliminary or incidental to such election, and for applying to such election any enactments respecting offences at the election of guardians, and may revoke or alter any previous order under this section: Provided as follows:

(*a.*) Such guardian or overseer of the parish, or other person as the sanitary authority may appoint, shall be the returning officer;

(*b.*) A poll, if demanded, shall be taken by ballot, and the said regulations shall provide for the application to such poll of the Ballot Act, 1872, including the provisions for punishing offences;

35 & 36 Vict. c. 33.

(*c.*) The poll shall be held on one day only, and shall close at eight o'clock in the evening, and shall be open for at least the period from five to eight o'clock in the evening;

(*d.*) The returning officer shall not vote except in the case of an equality of votes between any candidates, in which case he shall have a casting vote;

(*e.*) Any ballot boxes, instruments, fittings, and compartments provided by any public authority for Parliamentary, municipal, or school board elections, or belonging to any public authority for the purpose of elections, shall be lent to the returning officer on his request for the purpose of an election of allotment managers, under such conditions and either free of charge or for such reasonable charge as may be prescribed by regulations under this section;

(*f.*) The returning officer may, except during ordinary school hours, use free of charge for the purpose of an election under this section any room in a school receiving a grant out of moneys provided by Parliament, and any room the expense of maintaining which is payable out of any rate in the parish, but he shall make good any damage done to the room, and defray any expense

incurred by the person or body of persons, corporate or unincorporate, having control over the room, on account of its being so used.

(9) An election under this section shall not be questioned except in such manner as may be prescribed by regulations under this section, and the regulations may apply to such election any enactments respecting the questioning of an election of guardians.

(10) If an allotment manager is punished with imprisonment for any crime, or is adjudged a bankrupt, or enters into a composition or arrangement with his creditors, or ceases to reside in, or in the neighbourhood of, the parish, or absents himself for twelve months from all meetings of the allotment managers, except for temporary illness or other cause, to be approved by such managers, or is a tenant of any allotment under the management of the managers, he shall cease to be an allotment manager, and his office shall be vacant, and a person who, if elected, would by virtue of this enactment cease, otherwise than by reason of absence from meetings, to be a manager, shall not be qualified to be elected a manager, but, save as aforesaid, any retiring manager shall be eligible for re-election.

Expenses and receipts.

X.—(1) All expenses incurred by a sanitary authority under this Act, including allowances to officers of such authority for duties under this Act, shall be defrayed—

(*a.*) In the case of an urban sanitary authority as part of the general expenses of their execution of the Public Health Act, 1875; and

38 & 39 Vict. c. 55.

(*b.*) In the case of a rural sanitary authority as special expenses incurred in the execution of the Public Health Act, 1875, and such expenses shall be charged to the parish on account of which the land was acquired.

(2) Section two hundred and ninety-eight of the Public Health Act, 1875, with respect to costs of provisional orders, shall apply to costs incurred by a sanitary authority in relation to provisional orders under this Act.

(3) All sums received by a sanitary authority in respect of any land acquired under this Act, otherwise than from any sale or exchange, shall be applied in aid of the expenses incurred by them in respect of such land, and so far as they are not required for the payment of those expenses, shall be applied in aid of the general and special expenses above in this section mentioned, and in the case of a rural sanitary authority shall be credited to the parish on account of which the land was acquired.

(4) The sanitary authority may borrow for the purposes of acquiring, improving, and adapting land under this Act in like manner and subject to the like conditions as for the purpose of defraying the above-mentioned general and special expenses;

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and all sums payable by the sanitary authority in respect of principal or of interest on any money so borrowed shall be defrayed in manner provided by this section respecting expenses incurred under this Act in respect of such land.

38 & 39 Vict. c. 55.

(5) Sections two hundred and thirty-three, two hundred and thirty-four, and two hundred and thirty-six to two hundred and thirty-nine both inclusive, of the Public Health Act, 1875, relating to borrowing by a local authority, and sections two hundred and forty-two and two hundred and forty-three of the same Act, relating to loans by the Public Works Loan Commissioners to a local authority, shall apply to a loan for the purposes of this Act to a sanitary authority in like manner as if they were herein re-enacted and in terms made applicable thereto.

(6) Separate accounts shall be kept of the receipts and expenditure under this Act of the sanitary authority and their officers and of allotment managers and other persons acting under this Act, and such accounts shall be audited in like manner, and with the like incidents and consequences, as the accounts of the other receipts and expenditure of the sanitary authority and their officers under the Public Health Act, 1875, and in the case of allotment managers and other persons as the accounts of officers of the sanitary authority.

Sale of superfluous or unsuitable land.

XI.—(1) Where the sanitary authority are of opinion that any land acquired by them in pursuance of this Act or any part thereof is no longer needed for the purpose of allotments, or that any other land more suitable for such purpose is available, they may, with the sanction of the county authority, sell or let such land or part, or exchange the same for other land more suitable for the said purpose, and may pay or receive money for equality of exchange.

(2) The proceeds of a sale under this section, and any money received by the sanitary authority on any such exchange as aforesaid by way of equality of exchange, shall be applied in discharging, either by way of a sinking fund or otherwise, the debts and liabilities of the sanitary authority in respect of the land acquired under this Act, or in acquiring, adapting, and improving other land for allotments under this Act. and any surplus remaining may be applied for any purpose for which capital money may be applied, and which is approved by the Local Government Board; and the interest thereon (if any), and any money received from the letting of the land, may be applied in acquiring other land for allotments, or shall be applied in like manner as receipts from allotments under this Act are applicable: Provided that any such proceeds, surplus, interest, and money shall, in the case of a rural sanitary district, be credited to or applied for the benefit of the parish for which the land was purchased.

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(3) Sections one hundred and twenty-eight to one hundred and thirty-two (both inclusive) of the Lands Clauses Consolidation Act, 1845 (relating to the right of pre-emption of superfluous lands), shall apply upon any sale by a sanitary authority in pursuance of this section of any land, whether because it is no longer needed for the purpose of allotments, or because other land more suitable for the purpose is available, but save as aforesaid, the provisions of the Lands Clauses Consolidation Act, 1845, with respect to the sale of superfluous lands, shall not be deemed to be incorporated in this Act, or in any provisional order made under this Act.

Power to make scheme for provision of common pasture.

XII. Where it appears to any sanitary authority that, as regards their district, if urban, or any parish in their district, if rural, land can be acquired for affording common pasture at such price or rent that all expenses incurred by the sanitary authority in acquiring the land and otherwise in relation to the land when acquired may reasonably be expected to be recouped out of the charges paid in respect thereof, and that the acquisition of such land is desirable in view of the wants and circumstances of the labouring population, such sanitary authority may submit to the county authority for the county in which the district or parish is wholly or partly situate a scheme for providing such common pasture, and the county authority, if satisfied of the expediency of such scheme, may by order authorize the sanitary authority to carry it into effect, and upon such order being made this Act shall, with the necessary modifications, apply in like manner as if "allotments" in this Act included common pasture, and "rent" included a charge for turning out an animal.

Provided that the regulations made under this Act may extend to regulating the turning out of animals on the common pasture, to defining the persons entitled to turn them out, the number to be turned out, and the conditions under which animals may be turned out, and fixing the charges to be made for each animal, and otherwise to regulating the common pasture.

Power for allotment wardens or allotment

XIII.—(1) The allotment wardens under the Inclosure Act, 1845, and the Acts amending the same, having the management of any land appropriated under the said Acts, either before or after the passing of this Act, for allotments or field

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Note.

Sub-s. (1).

The side heading to this section (8 & 9 Vict. c. 119) is an error; it should be 8 & 9 Vict. c. 118. Under the Inclosure Act, 1845 (8 & 9 Vict. c. 118), lands appropriated under that Act for allotments or field gardens for the labouring poor are, by sect. 73, allotted to and vested in the churchwardens and overseers of the parish; and by sect. 108 the management of, but not the property in, such lands is vested in allotment wardens, who are to be the incumbent, one of the churchwardens, and two other persons to be chosen yearly in the same manner as overseers are chosen. By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 6 (4), the powers and duties

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trustees to transfer to sanitary authority. 8 & 9 Vict. c. 119 (*sic*).

gardens for the labouring poor of any place, may by agreement with any sanitary authority within whose district such place is wholly or partly situate, transfer the management of such land to the sanitary authority, upon such terms and conditions as may be agreed upon with the sanction, as regards the said allotment wardens, of the Land Commissioners for England, and thereupon such land shall vest in the sanitary authority.

45 & 46 Vict. c. 80.

(2) All trustees within the meaning of the Allotments Extension Act, 1882, required or authorized by that or any other Act to let lands in allotments to cottagers, labourers, journeymen, or others in any place may, if they think fit, in lieu of letting such land in manner provided by the said Acts, sell or let such land to the sanitary authority of the district in which such place is wholly or partly situate, upon such terms as may be agreed upon, with the sanction, as regards the said trustees, of the Charity Commissioners for England and Wales.

(3) The provisions of this Act shall apply to land vested in the sanitary authority under this section, in like manner as if it had been acquired by the sanitary authority under the general powers of this Act.

As to combination of parishes and contributory places.

XIV.—(1) If expenses under this Act are incurred in respect of two or more parishes, such expenses shall be apportioned among those parishes in like manner, and subject to the like provisions, as special expenses incurred for the common benefit of two or more contributory places under the Public Health Act, 1875, may be apportioned.

(2) Where in a rural district any area other than a parish is a contributory place for the purposes of the Public Health Act, 1875, this Act shall apply to such contributory place as if it were a parish, and the expression "parish" in this Act shall not include any parish wholly or partly within such contributory place, and the Parliamentary electors for the contributory place shall be the persons registered in any list of Parliamentary electors for any parish wholly in such contributory

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Sect. 13.

Note. Sub-s. (1).

of allotment wardens under the Public Inclosure Acts are, in every parish having a parish council, transferred to the parish council; and also the property in such lands is, by s. 5 (2) (*c*) of that Act, vested in the parish council. In rural parishes, therefore, having a parish council, the sub-section will be practically of no effect.

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The powers of the Land Commissioners are now transferred to the Board of Agriculture by the Board of Agriculture Act, 1889 (52 & 53 Vict. c. 30).

Note. Sub-s. (2).

See the Glebe Lands Act, 1888 (51 & 52 Vict. c. 20), s. 8, for the condition that, on a sale of glebe lands, a part be offered for sale as allotments.

Sect. 14.

Note. Sub-s. (1).

"A contributory place" is defined in s. 229 of the Public Health Act, 1875 (38 & 39 Vict. c. 55).

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place, or for any parish partly therein, if registered in respect of any qualification situate in such contributory place.

(3) Where a district or parish forms part of more than one county, it shall be deemed for the purposes of this Act to be situate wholly in that county which comprised, according to the last published census for the time being, the largest portion of the population of such district or parish, and where such population is not specified in such census, then in the county in which the largest part of the area of such district or parish is situate, and any doubt which may arise under this section as to the county shall be determined by the Local Government Board.

Two or more parishes immediately adjoining each other may make a representation under this Act, and a sanitary authority of a rural district may take proceedings in respect of such parishes as if they were a single parish.

Register of tenancies.

XV. The sanitary authority shall cause a register to be kept showing the particulars of the tenancy, acreage, and rent of every allotment let, and of the unlet allotments, and such register shall be open to the examination of ratepayers in the urban district or the parish for which the allotments have been provided, in such manner as may be prescribed by the regulations made under this Act by the sanitary authority, and any ratepayer of such district or parish, without paying any fee, may take copies of or extracts from such register, and within one month after the twenty-fifth day of March in every year shall cause an annual statement showing their receipts and expenditure under this Act in respect of the year ending on that day, and their liabilities outstanding on that day, to be deposited at some convenient place in the district, if urban, or the parish to which the statement relates if the district is rural, and any ratepayer may, without fee, inspect and take copies of such statement.

Definition of county authority.

XVI. For the purposes of this Act "county authority" shall be any representative body elected by the inhabitants of the county which may be established under any Act of any future session of Parliament, and until such representative body is established the powers and duties of the county authority under this Act shall be exercised and performed by the Local Government Board, and the provisions of this Act, and of the enactments incorporated with this Act, shall accordingly be construed with the necessary modification.

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Sect. 16. Note.

The "county authority" is now the county council of each administrative county (51 & 52 Vict. c. 10; 51 & 52 Vict. c. 41), except in county boroughs, where the Local Government Board is still the county authority under this Act. (See Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 34 (7).)

Sect. 17.

Definitions.

XVII. In this Act, unless the context otherwise requires—

The expression "allotment" includes a field garden.

The expressions "urban district" and "rural district" mean respectively an urban and rural sanitary district within the meaning of the Public Health Act, 1875.

The expression "sanitary authority" means the urban sanitary authority of an urban sanitary district and the rural sanitary authority of a rural sanitary district within the meaning of the Public Health Act, 1875.

The expression "land" includes pasture, arable, and other land, and any right of way or easement.

Extent of Act.

XVIII. This shall not apply to Scotland or Ireland.

# THE LOCAL AUTHORITIES (EXPENSES) ACT, 1887.

50 & 51 VICT. CHAP. 72.

An Act to amend the Law relating to Expenses of Local Authorities. [16th September, 1887.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

I. This Act may be cited as the Local Authorities (Expenses) Act, 1887.

Definitions.

II. In this Act—

The expression "local authority" has the same meaning as in the Local Loans Act, 1875.

38 & 39 Vict. c. 83.

The expression "district auditor" has the same meaning as in the District Auditors Act, 1879.

42 & 43 Vict. c. 6.

Sect. 2. Note.

By the definitions herein referred to "local authority" includes any authority whatsoever having power to "levy" a rate, the proceeds of which are applicable to public local purposes, and leviable on the basis of an assessment in respect of property; and "levy" includes the issue and enforcement of a precept requiring payment from some authority or officer. Guardians are, therefore, a "local authority" within the meaning of this Act.

III. Expenses paid by any local authority whose accounts are subject to audit by a district auditor shall not be disallowed by that auditor if they have been sanctioned by the Local Government Board.

Sect. 3.

Limitation on power of district auditor.

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# THE COUNTY ELECTORS ACT, 1888.

51 & 52 VICT. CHAP. 10.

An Act to provide for the Qualification and Registration of Electors for the purposes of Local Government in England and Wales. [16th May, 1888.]

[This Act is printed here on account of the duties which it imposes upon overseers, and also by sect. 4 (2) (*h*) upon guardians. It is beyond the scope of this work to enter into details respecting the law of registration.]

WHEREAS it is expedient to make provision with respect to the qualification and registration of electors of any representative bodies (in this Act referred to as "county authorities") which may be established under any Act of the present session of Parliament for the purposes of local government in counties in England:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

I. This Act may be cited as the County Electors Act, 1888.

Short title and construction.

The Registration Act, 1885, and the Parliamentary Registration Acts within the meaning of that Act, are in this Act

48 & 49 Vict. c. 15.

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Under this section, the expenses of guardians incurred in respect of an overdraft with their treasurer may be allowed by the auditor if the consent of the Local Government Board has been obtained to the overdraft being incurred.

Sect. 3. Note.

See the Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91), s. 4, for the power of the Local Government Board to remit on equitable grounds surcharges and disallowances which have been properly made by district auditors.

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The Registration Act, 1885 (48 & 49 Vict. c. 15), s. 19, provides that the expression "Parliamentary Registration Acts" means the 6 & 7 Vict. c. 18, and the 41 & 42 Vict. c. 26, inclusive of any Acts and enactments amending the said Acts, or otherwise relating to revising barristers, or to the registration of voters, and of any Acts or enactments relating to rating so far as they are auxiliary to or deal with the registration of voters. There is also a Registration of Electors Act, 1891 (54 & 55 Vict. c. 18), which amends this Act.

Sect. 1. Note.

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referred to as the Registration of Electors Acts, and together with this Act may be cited as the Registration of Electors Acts, 1843 to 1888.

This Act shall be construed as one with the Registration of Electors Acts.

Extension of burgess franchise to county electors outside municipal boroughs.
45 & 46 Vict. c. 50.

II.—(1) For the purpose of the election of county authorities in England, the burgess qualification, that is to say, the qualification enacted by section nine of the Municipal Corporations Act, 1882, shall extend to every part of a county not within the limits of a borough, and a person possessing in any part of a county outside the limits of a borough such burgess qualification, shall be entitled to be registered under this Act as a county elector in the parish in which the qualifying property is situate.

(2) Sections nine, thirty-one, thirty-three, and sixty-three of the Municipal Corporations Act, 1882, and any enactments of that or any other Act affecting the same, shall extend to so much of every county as is not comprised within the limits of a municipal borough in like manner as if they were herein re-enacted, with the substitution of "county" for "borough" and of "county elector" for "burgess," and with the other necessary modifications.

Occupation of land of the value of 10*l.* to qualify.

III. Every person who is entitled to be registered as a voter in respect of a ten pounds occupation qualification within the meaning of the provisions of the Registration Act, 1885, which are set out in the schedule to this Act, shall be entitled to be registered as a county elector, and to be enrolled as a burgess, in respect of such qualification, in like manner in all respects as if the sections of the Municipal Corporations Act, 1882, relating to a burgess qualification included the said ten pounds occupation qualification.

Registration of county electors.
41 & 42 Vict. c. 26.

IV.—(1) The Registration of Electors Acts shall, so far as circumstances admit, apply to the enrolment of burgesses in a municipal borough to which the Parliamentary and Municipal

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Sect. 4. Note. Sub-s. (1).

The effect of the above provision is that in every parish, whether in a borough or not, and in every borough the lists of county electors and burgesses will be made out in manner provided by the Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), and revised by the revising barrister, together with the lists of Parliamentary voters. The occupation voters lists will always be made out in the three divisions prescribed by that Act. Divisions 1 and 2 will form the list of Parliamentary voters, and 1 and 3 the register of county electors. (See the Local Government Act (56 & 57 Vict. c. 73), s. 44.)

Sect. 6, sub-sect. (2) of the Registration Act, 1885, related to "merged boroughs," *i.e.*, boroughs which were formerly included in the area of a Parliamentary borough which in 1885 ceased to be a Parliamentary borough.

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Registration Act, 1878, does not apply, and to the registration of county electors within the meaning of this Act; and the lists of burgesses, and of county electors, and of occupation voters for Parliamentary elections, shall, so far as practicable, be made out and revised together; and the Registration of Electors Acts shall accordingly—

(*a.*) Apply to every such municipal borough in like manner as if it were a borough to which sub-section two of section six of the Registration Act, 1885, applied (sub-section one of which section is hereby repealed), and revising assessors for such borough shall not be elected; and

(*b.*) Apply to every parish not situate in a municipal borough, in like manner as if such parish were a municipal borough to which the Parliamentary and Municipal Registration Act, 1878, applies, and the said lists of county electors and of occupation voters for Parliamentary elections in such parish shall be made out in divisions, as provided in the said Act: Provided that a person whose name appears in any list of county electors or burgesses in a county may object to the name of any other person on a list of county electors or burgesses for a parish in that county, and may oppose the claim of a person to have his name inscribed in any such list.

(2) In the construction of the Registration of Electors Acts for the purpose of their application to a parish not situate in a municipal borough, there shall be made the variations following, and such other variations as may be necessary for carrying into effect the application, that is to say:—

(*a.*) Where such parish is not within a Parliamentary borough, "Parliamentary county" shall be substituted for "Parliamentary borough;"

(*b.*) Where such parish is not within a Parliamentary borough, the clerk of the peace shall perform the duties of and be substituted for the town clerk; but any notice required to be given to the town clerk by section twenty-seven of the Parliamentary and Municipal

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Note.

Sub-s. (2) (*b*).

The Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 27, as amended by clause (*b*) of this sub-section provides that an objection may be withdrawn by notice in writing, signed by the objector, and given to the person objected to, and to the overseers not less than seven days before the day of holding the first court of revision of the list to which the objection relates. The same section provides that any objection by a qualified objector may, after his death, be revived by any other person qualified to have made the objection originally, by a notice to that effect in writing, signed by him, and given to the person objected to and to the overseers at or before the revision of the entry to which the objection relates.

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Registration Act, 1878, relating to the withdrawal and revival of objections, shall be given to the overseers and not to the clerk of the peace;

(*c.*) County elector shall be substituted for burgess;

(*d.*) Section nine of the Parliamentary and Municipal Registration Act, 1878, shall not apply to any parish which is not wholly situate in an urban district;

(*e.*) Where such parish is not within the Parliamentary borough, section twenty-one of the Parliamentary and Municipal Registration Act, 1878, shall not apply, and the lists and register of voters shall be made out alphabetically, but shall be framed in parts for polling districts and electoral divisions and for urban districts and for wards of urban and rural districts in such a manner that the parts may be conveniently compiled or put together to serve as lists for polling districts, and elections in urban districts and as electoral division or ward lists;

(*f.*) Where such parish is within a Parliamentary borough—

(i.) The overseers shall send to the clerk of the peace for the county two copies of the lists of voters at the same time at which they send copies to the town clerk; and

(ii.) The town clerk shall cause to be printed such number of copies of the revised lists as the clerk of the peace may require, and shall transmit the same to the clerk of the peace, who shall deal with the same as with other lists of county electors in his county; but

(iii.) Save as aforesaid, the clerk of the peace shall not act in relation to the registration of county electors in the said parish, and the town clerk of the Parliamentary borough shall be the town clerk within the meaning of the Registration of Electors Acts and this Act in relation to such parish, and shall include in his precept to the overseers proper directions respecting the registration of the county electors within the meaning of this Act.

(*g.*) The lists of occupation voters and county electors shall be revised by the revising barrister for the Parliamentary borough or county in which such parish is

Sect. 4.

Note.

Sub-s. (2) (*d*). Sect. 9 of the Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), referred to in clause (*d*) is that which directs publication of notices and lists in post and telegraph offices.

Sub-s. (2) (*e*). Clause (*e*) is extended by the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 76 (1), which enacts that the provisions of this section with respect to the framing of the lists and register of voters in parts shall extend to parishes situate within a Parliamentary borough.

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situate, and the revising barrister for revising the county electors lists for the whole or any part of an electoral division of any county shall, if so required by the county council, hold a court in that electoral division or at some convenient place in a division adjoining thereto.

(*h.*) The guardians of a union which is not wholly comprised in an urban district may, with the consent of the overseers of any parish or parishes within their union for which an assistant overseer has not been appointed, annually appoint a fit person to act as registration officer for such parish or parishes, and may remove any such person, and fill up any vacancy caused by death, resignation, or otherwise. Such registration officer shall perform all the duties of overseers of the parish or parishes for which he is appointed in respect of the registration of county electors and Parliamentary voters, and the provisions of the Registration of Electors Acts relating to overseers, including those providing for penalties, shall apply to him accordingly :

Provided that his remuneration shall be fixed and paid by the guardians of the union, and charged on the poor rates of the parish or parishes for which he is appointed, and (if he acts for more than one parish) in proportion to the number of persons on the registers made during the year of his appointment of county electors and Parliamentary voters for each parish.

(3) Notwithstanding anything in this Act contained, where a municipal borough or an urban district is co-extensive with any electoral division or divisions of a Parliamentary county, the lists of voters may be directed by the county authority to be made out according to the order in which the qualifying premises appear in the rate-book, and section twenty-one of the Parliamentary and Municipal Registration Act, 1878, shall apply to such borough or urban district, and where lists of voters are so made out nothing in this Act shall require such part of the county register as consists of these lists to be arranged alphabetically.

Making out of lists and registers in metropolis.

V. After the year one thousand eight hundred and eighty-eight, in every part of the metropolis, and in every part of a Parliamentary borough, the whole or greater part of which is situate in the metropolis, the lists and registers of Parliamentary voters, and of county electors, shall, unless the local

Sect. 4. Note. Sub-s. (3).

The term "county authority" in this sub-section means the county council. (See the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 76 (2).)

Sect. 5. Note.

The local authority referred to in this section is the London County Council. (See the Local Government Act, 1888 (51 & 52 Vict. c. 41), ss. 3 (xii.), 76 (2).)

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authority otherwise direct, be arranged in the same order in which the qualifying premises appear in the rate-book for the parish in which those premises are situate, or as nearly thereto as will cause those lists and registers to record the qualifying premises in successive order in the street or other place in which they are situate.

For the purpose of this section "metropolis" means the city of London and the parishes and places mentioned in schedules (A.), (B.), and (C.), of the Metropolis Management Act, 1855.

18 & 19 Vict. c. 120.

Revision of electoral lists.

VI.—(1) The lists of Parliamentary voters, and of burgesses, and of county electors, shall be revised between the eighth day of September and the twelfth day of October both inclusive, and shall be revised as soon as possible after the seventh day of September, and the eighth day of September shall be substituted in the Acts relating to the registration of Parliamentary voters for the fifteenth day of September; and the declarations under section ten of the County Voters Registration Act, 1865, and section twenty-four of the Parliamentary and Municipal Registration Act, 1878, shall be sent to the clerk of the peace or town clerk on or before the fifth day of September.

28 & 29 Vict. c. 36.

41 & 42 Vict. c. 26.

6 & 7 Vict. c. 18.

(2) In sections sixty-two and sixty-three of the Parliamentary Voters Registration Act, 1843 (relating to appeals from revising barristers in England), "the Michaelmas sittings of the High Court of Justice" shall be substituted for the "Michaelmas term," and forthwith after the fourth day of the Michaelmas sittings a court or courts shall sit for the purpose of hearing such appeals, and those appeals shall be heard and determined continuously and without delay, and any statement by the barrister for the purpose of any such appeal made in pursuance of section forty-two of the said Act may be made at any time within ten days after the conclusion of the revision, so that it be made not less than four days before the first day of the said Michaelmas sittings, and the statement need not be read in open court, but shall be submitted to the appellant, who, if he approves the same, shall sign the same as directed by the said section, and return the same to the barrister.

Roll of county electors.

VII.—(1) The clerk of the peace of every county shall make up a register of all persons registered as burgesses or county electors in the county, both for the county and for each electoral division into which the county is divided for the purpose of election of the county authority, and such number of copies as

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Sect. 6. Note. Sub-s. (1).

The declarations under the County Voters Registration Act, 1865 (28 & 29 Vict. c. 36), s. 10, are declarations by county voters relating to change of abode or objections founded on the second column of the lists. The declarations under the Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 24, are those which relate to misdescription of borough voters.

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the clerk of the peace may require of the list of burgesses as revised shall be delivered by the town clerk to such clerk of the peace for the purpose of making up such register.

(2) The Registration of Electors Acts, and sections forty-five, forty-eight, and seventy-one of the Municipal Corporations Act, 1882, shall apply, for the purposes of this section, with the substitution of clerk of the peace for town clerk, and of county register and division register for burgess roll and ward roll respectively, and of electoral division for ward, and of county fund for borough fund. 45 & 46 Vict. c. 50.

(3) If district councils are established under any Act of the present session of Parliament, the clerk of every such council, not being the council of a borough, shall make up a register of all persons registered as county electors in his district, and where there are wards in a district, of all county electors in each ward, and he shall obtain from the clerk of the peace a sufficient number of copies of the lists of the county electors so registered as may be required for the purpose of making up such register and supplying the same to the public, and the above-mentioned Acts and sections shall apply for that purpose, with the substitution of "clerk of the district council" for "town clerk," and of "district register" for "burgess roll" respectively;

(4) Provided that nothing in this section shall prevent a county elector from being registered in more than one division register.

(5) Where in pursuance of section four of the Registration Act, 1885, the revising barrister has power to erase the name of any person as a Parliamentary voter from division one of the occupiers' list, such barrister, in lieu of erasing the name, shall place an asterisk or other mark against the name, and, in printing such lists, the name shall be numbered consecutively with the other names, but an asterisk or other mark shall be printed against the name, and a person against whose name such asterisk or other mark is placed shall not be entitled to vote in respect of such entry at a Parliamentary election, but shall have the same right of voting at an election of a county authority as he would have if no such mark were placed against his name. 48 & 49 Vict. c. 15.

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Note.

Sub-s. (4).

Although a county elector may be registered in more than one electoral division, he cannot vote in more than one division at the same election (*Knill* v. *Towse*, 24 Q. B. D. 697; 59 L. J. Q. B. 455; 63 L. T. 47; 38 W. R. 521; 54 J. P. 789).

Sub-s. (5).

The Registration Act, 1885 (48 & 49 Vict. c. 15), s. 4 (9), provides that when the name of a person appears more than once on the lists of voters for the same county, the revising barrister shall retain one entry and erase the others. By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 44 (6), this sub-section is amended with the object of distinguishing persons who are entitled to vote as parochial electors only.

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(6) If under any Act of the present session of Parliament establishing a council for a county any portion of another county is added to that county for the purpose of such election, such portion of the county register as relates to the electors having qualifying property in the said part so added shall be deemed to be part of the county register of the county for which such council is elected, and the clerk of the peace and other officers shall take such steps as may be necessary for giving effect to these enactments.

Expenses.

VIII.—(1) All expenses properly incurred and all sums received in carrying into effect the provisions of this Act and the Registration of Electors Acts with respect to county electors,—

(*a.*) If incurred or received by overseers, shall be respectively paid and applied as expenses and receipts of overseers under the Registration of Electors Acts in the case of the lists of Parliamentary voters; and

(*b.*) If incurred or received by the clerk of the peace or town clerk, shall be paid out of or into the county or borough fund; and such expenses shall include all proper and reasonable fees and charges made and charged by him for the trouble, care, and attention of such clerk in the performance of the services and duties imposed on him by the said provisions.

Remuneration of revising barristers and contribution by county authorities.

IX. Every barrister appointed to revise any list of voters under the Parliamentary Voters Registration Act, 1843, shall be paid the sum of two hundred and fifty guineas by way of remuneration to him, and in satisfaction of his travelling and other expenses, and every such barrister, after the termination of his last sitting, shall forward his appointment to the commissioners of Her Majesty's Treasury, who shall make an order for the payment of the above sum to every such barrister.

49 & 50 Vict. c. 42.

The maximum amount to be paid to an additional barrister in pursuance of the Revising Barristers Act, 1886, shall not exceed the amount authorized by this section to be paid to a revising barrister.

The sums so paid to a revising barrister or an assistant barrister shall be partly payable out of monies provided by

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Note.

See the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 92 (2).

Sub-s. (6).

Sect. 8.

Note.

The statutory provisions relating to the expenses of overseers are contained in the Parliamentary Voters Registration Act, 1843 (6 & 7 Vict. c. 18), s. 57; the Parliamentary Electors Registration Act, 1868 (31 & 32 Vict. c. 58), ss. 31, 32; the Parliamentary and Municipal Registration Act, 1878 (41 & 42 Vict. c. 26), s. 30; and the Registration of Electors Act, 1891 (54 & 55 Vict. c. 18), s. 2. The last-mentioned Act was passed in order to remove doubts arising under this section and sect. 4, *supra*.

Parliament and partly by the county authorities, as herein-after mentioned. Sect. 9.

(1) There shall be annually paid by the county authority of every county out of the county fund into Her Majesty's Exchequer such sum as the Treasury certify to be one-half of the cost incurred for the payment of revising barristers at the then last revision of the lists of Parliamentary electors, burgesses, and county electors in that county.

(2) The Treasury shall yearly ascertain the total cost of the revising barristers appointed for all the counties and boroughs on any circuit, and shall divide one-half of such cost among the counties comprised in such circuit in proportion to the number of burgesses and county electors in each county, and certify the amount which under such apportionment is due under this section from each county. The Treasury may vary such certificate if they think fit, but unless it is so varied the certificate shall be final.

(3) So much of any Act as requires a payment out of the borough fund of any borough to a revising barrister, in respect of the revision of the burgess lists, shall be repealed, without prejudice to any payment or liability previously made or incurred.

Perpetuation of 49 & 50 Vict. c. 42.

X.—(1) Section four of the Revising Barristers Act, 1886, is hereby repealed, and that Act, as amended by this Act, shall be perpetual.

Repeal of 6 & 7 Vict. c. 18, s. 59.

(2) So long as a separate commission of assize is issued for the county of Surrey, that county shall be deemed to be a circuit within the meaning of section two, as well as of section one of the Revising Barristers Act, 1886.

(3) An application to appoint an additional barrister under the said Act may be made at any time after the first day of September.

(4) Section fifty-nine of the Parliamentary Voters Registration Act, 1843, is hereby repealed.

Application of provisions of Act respecting county fund.

XI.—(1) In the event of a county authority being established under any Act of the present session, the provisions of this Act with respect to county authority, county, and county fund shall refer to the said county authority and to the county and county fund of such authority, and in case of any borough which, for the purposes of the said Act, is a county of itself,

Sect. 9. Note.

The Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 76 (4), provides for the amalgamation of parts of the county of London with the counties of Surrey and Middlesex for the purposes of this section.

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to the council of the borough and to the borough and borough fund.

(2) In the event of a county authority not being established under any Act during the present session, the sums directed by this Act to be paid out of and into the county fund shall be paid by or under the direction of the local authority of every county quarter sessional area within the meaning of the Registration Act, 1885, in like manner as expenses or receipts of the clerk of the peace for such area under the Registration of Electors Acts, and by and under the direction of the council of every municipal borough which is also a Parliamentary borough out of and into the borough fund, and the amount to be paid for revising barristers shall be apportioned between such quarter sessional areas and boroughs upon the principles above mentioned in this Act.

48 & 49 Vict. c. 15.

Separate list of persons residing within fifteen miles of county.

XII. A list of persons occupying property in a county, and residing within fifteen miles, but more than seven miles from the county, shall be made out in accordance with section forty-nine of the Municipal Corporations Act, 1882, and that section shall apply as if it were herein re-enacted, with the substitution of "county" for "borough," and of "county elector" for "burgess," and of "clerk of the peace" for "town clerk."

Precepts by clerk of the peace.

XIII. All precepts, notices, and forms required for the purposes of the Registration of Electors Acts shall be altered in such manner as may be declared by Her Majesty in Council to be necessary for carrying into effect this Act, and clerks of the peace and town clerks shall alter their precepts and forms accordingly, and if clerks of the peace or town clerks have sent out precepts to the overseers before the passing of this Act, they shall send to them such supplemental precepts as are necessary or desirable for instructing them to carry into effect this Act.

Definitions.

XIV. In this Act, unless the context otherwise requires,—

The expressions "urban district" and "rural district" respectively mean an urban or rural sanitary district, also any urban or rural district under any Act of the present session of Parliament;

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Sect. 12. Note.

The Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 49, provides for the making out of the separate non-resident list. The Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 76 (6), provides that nothing in this section shall apply to any person occupying property in a borough.

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Sect. 13. Note.

This section is supplemented by the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 76 (7), and the Registration Order, 1895, issued thereunder.

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The expression "clerk of the peace" means, in the event of the establishment of a county authority, the person acting as clerk of that authority, and such person shall act as clerk of the peace throughout the whole county of such authority, both for the purposes of this Act and of the Registration of Electors Acts; subject nevertheless—

(*a.*) To the provisions of the Registration Act, 1885, respecting the case of any Parliamentary county extending into more county quarter sessional areas than one, and

(*b.*) To the proviso that where at the passing of this Act any clerk of the peace acts as clerk of the peace under the Registration of Electors Acts he shall continue so to act, but shall act as deputy of the person acting as clerk of the peace by virtue of this Act.

[Sect. 15. Transitory provisions for the year 1888.]

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SCHEDULE. Section 3.

REGISTRATION ACT, 1885.

*Definition of Ten Pounds Occupation Qualification.*

Ten pounds occupation qualification.

A person entitled to be registered as a voter in respect of a ten pounds occupation qualification in a borough, municipal or Parliamentary—

(*a.*) Must during the whole twelve months immediately preceding the fifteenth day of July have been an occupier as owner or tenant of some land or tenement in a parish [or township] of the clear yearly value of not less than ten pounds; and

(*b.*) Must have resided in or within seven miles of the borough during six months immediately preceding the fifteenth day of July; and

(*c.*) Such person, or some one else must during the said twelve months have been rated to all poor rates made in respect of such land or tenement; and

(*d.*) All sums due in respect of the said land or tenement on account of any poor rate made and allowed during the twelve months immediately preceding the fifth day of January next before the registration, or on account of any assessed taxes due before the said fifth day of January, must have been paid on or before the twentieth day of July.

If two or more persons jointly are such occupiers as above-mentioned, and the value of the land or tenement is such as

Schedule.

to give ten pounds or more for each occupier, each of such occupiers is entitled to be registered as a voter.

If a person has occupied in the borough different lands or tenements of the requisite value in immediate succession during the said twelve months, he is entitled in respect of the occupation thereof to be registered as a voter in the parish [or township] in which the last occupied land or tenement is situate.

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# THE RAILWAY AND CANAL TRAFFIC ACT, 1888.

51 & 52 VICT. CHAP. 25.

An Act for the better regulation of Railway and Canal Traffic, and for other purposes. [10th August, 1888.]

[Only so much of this Act is here printed as relates to the jurisdiction of the commissioners, provides for appeals from the commissioners, and contains a general enactment upon the subject of rating appeals by railway and canal companies.]

* * * * *

Short title and construction.

[I.] This Act may be cited as the Railway and Canal Traffic Act, 1888.

36 & 37 Vict. c. 48.

This Act shall be construed as one with the Regulation of Railways Act, 1873, and the Acts amending it; and those Acts and this Act may be cited together as the Railway and Canal Traffic Acts, 1873 and 1888.

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*Jurisdiction.*

Jurisdiction of Railway Commissioners transferred to the commission.

VIII. There shall be transferred to and vested in the commissioners all the jurisdiction and powers which at the commencement of this Act were vested in, or capable of being exercised by the Railway Commissioners, whether under the Regulation of Railways Act, 1873, or any other Act, or otherwise, and any reference to the Railway Commissioners in the Regulation of Railways Act, 1873, or in any other Act, or in any document, shall, from and after the commencement of this Act, be construed to refer to the Railway and Canal Commission established by this Act.

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Sect. 1.

Note.

The Regulation of Railways Act, 1873 (36 & 37 Vict. c. 48), s. 9, provides for disputes to which a railway or canal company is a party, being referred to the commissioners for their decision, and under that section questions of rating have been so referred.

*Appeals.*

Sect. 17.

Appeals on certain questions to superior court of appeal.

XVII.—(1) No appeal shall lie from the commissioners upon a question of fact, or upon any question regarding the *locus standi* of a complainant.

(2) Save as otherwise provided by this Act, an appeal shall lie from the commissioners to a superior court of appeal.

(3) An appeal shall not be brought except in conformity with such rules of court as may from time to time be made in relation to such appeals by the authority having power to make rules of court for the superior court of appeal.

(4) On the hearing of an appeal the court of appeal may draw all such inferences as are not inconsistent with the facts expressly found, and are necessary for determining the question of law, and shall have all such powers for that purpose as if the appeal were an appeal from a judgment of a superior court, and may make any order which the commissioners could have made, and also any such further or other order as may be just, and the costs of and incidental to an appeal shall be in the discretion of the court of appeal, but no commissioner shall be liable to any costs by reason or in respect of any appeal.

(5) The decision of the superior court of appeal shall be final: Provided that where there has been a difference of opinion between any two of such superior courts of appeal, any superior court of appeal in which a matter affected by such difference of opinion is pending may give leave to appeal to the House of Lords, on such terms as to costs as such court shall determine.

(6) Save as provided by this Act, an order or proceeding of the commissioners shall not be questioned or reviewed, and shall not be restrained or removed by prohibition, injunction, *certiorari*, or otherwise, either at the instance of the Crown or otherwise.

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*Miscellaneous.*

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Evidence on rating appeals.

XLVIII. On any rating appeal, and before any court, where it may be material to show the receipts or profits of a railway company or canal company, or railway and canal company, it shall be lawful for the company to prove the same by written statements or returns verified by the affidavit or statutory declaration of the manager or other responsible officer, and any such statements or returns shall be *primâ facie* evidence of the facts therein stated with respect to such receipts or profits: Provided that the person by whom any such affidavit or statutory declaration is made shall in every case, if required, attend to be cross-examined thereon.

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Sect. 55.

Definitions.

LV. In this Act, unless the context otherwise requires,—

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The term "rating appeal" means an appeal against any valuation list or against any poor rate or any other local rate.

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# THE LOCAL GOVERNMENT (ENGLAND AND WALES) ACT, 1888.

51 & 52 VICT. CHAP. 41.

An Act to amend the Laws relating to Local Government in England and Wales, and for other purposes connected therewith. [13th August, 1888.]

[Although only a portion of this Act has any definite bearing upon poor law administration, it has been deemed more useful, on account of the comprehensive nature of the Act, to print it in full (with the exception of the transitory provisions), than to extricate from the Act and print only such sections or parts of sections as relate directly to matters connected with the poor law. The notes, however, are mainly confined to the enactments relating to the poor law.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

## PART I.

## COUNTY COUNCILS.

### *Constitution of County Council.*

Establishment of county council.

I. A council shall be established in every administrative county as defined by this Act, and be entrusted with the management of the administrative and financial business of that county, and shall consist of the chairman, aldermen, and councillors.

Composition and election of council and position of chairman.

II.—(1) The council of a county and the members thereof shall be constituted and elected and conduct their proceedings in like manner, and be in the like position in all respects, as the council of a borough divided into wards, subject nevertheless to the provisions of this Act, and in particular to the following provisions, that is to say :—

(2) As respects the aldermen or councillors—

(*a.*) Clerks in holy orders and other ministers of religion

shall not be disqualified for being elected and being aldermen or councillors;

(*b.*) A person shall be qualified to be an alderman or councillor who, though not qualified in manner provided by the Municipal Corporations Act, 1882, as applied by this Act, is a peer owning property in the county, or is registered as a Parliamentary voter in respect of the ownership of property of whatsoever tenure situate in the county; 45 & 46 Vict. c. 50.

(*c.*) The aldermen shall be called county aldermen, and the councillors shall be called county councillors; and a county alderman shall not, as such, vote in the election of a county alderman;

(*d.*) The county councillors shall be elected for a term of three years, and shall then retire together, and their places shall be filled by a new election; and

(*e.*) The divisions of the county for the purpose of the election of county councillors, shall be called electoral divisions and not wards, and one county councillor only shall be elected for each electoral division:

(3) As respects the number of the county councillors, and the boundaries of the electoral divisions in every county—

(*a.*) The number of the county councillors, and their apportionment between each of the boroughs which have sufficient population to return one councillor and the rest of the county, shall be such as the Local Government Board may determine; and

(*b.*) Any borough returning one councillor only shall be an electoral division; and

(*c.*) In the rest of the county the electoral divisions shall be such as in the case of a borough returning more than one councillor the council of the borough, and in the rest of the county the quarter sessions for the county, may determine, subject in either case to the directions enacted by this Act; and in the case of elections after the first, to any alterations made, in accordance with the said directions, in manner in this Act mentioned:

(4) As respects the electors of the county councillors—

The persons entitled to vote at their election shall be, in a borough, the burgesses enrolled in pursuance of the Municipal Corporations Act, 1882, and the Acts amending the same, and elsewhere the persons registered as county electors under the County Electors Act, 1888: 45 & 46 Vict. c. 50. 51 & 52 Vict. c. 10.

(5) As respects the chairman of the county council—

(*a.*) He shall be called chairman instead of mayor; and

(*b.*) He shall, by virtue of his office, be a justice of the peace for the county; but before acting as such justice he shall,

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if he has not already done so, take the oaths required by law to be taken by a justice of the peace other than the oath respecting the qualification by estate.

(6) The county council may from time to time appoint a member of the council to be vice-chairman, to hold office during the term of office of the chairman, and, subject to any rules made from time to time by the county council, anything authorized or required to be done by, to, or before the chairman may be done by, to, or before such vice-chairman.

*Powers of County Council.*

Transfer to county council of administrative business of quarter sessions.

III. There shall be transferred to the council of each county on and after the appointed day, the administrative business of the justices of the county in quarter sessions assembled, that is to say, all business done by the quarter sessions or any committee appointed by the quarter sessions, in respect of the several matters following, namely,—

(i.) The making, assessing, and levying of county, police, hundred, and all rates, and the application and expenditure thereof, and the making of orders for the payment of sums payable out of any such rate or out of the county stock or county fund, and the preparation and revision of the basis or standard for the county rate;

(ii.) The borrowing of money;

(iii.) The passing of the accounts of and the discharge of the county treasurer;

(iv.) Shire halls, county halls, assize courts, judges' lodgings, lock-up houses, court houses, justices' rooms, police stations, and county buildings, works, and property,

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Sect. 3. Note. Sub-s. (i.).

The county rate is made under the County Rate Act, 1852 (15 & 16 Vict. c. 81), and the County Rate Act, 1866 (29 & 30 Vict. c. 78), as affected by the Agricultural Rates Act, 1896 (59 & 60 Vict. c. 10). The rate is levied by precepts addressed to the guardians directing them to pay to the county treasurer the sums required from each parish in the union, and the guardians then obtain the monies so required from the overseers of parishes in the same manner as the poor rate. (See 15 & 16 Vict. c. 81, s. 26.)

The police rate is made under the County Police Act, 1840 (3 & 4 Vict. c. 88), upon the same basis as the county rate, and is levied with the county rate.

A hundred rate is now only leviable for the purposes of certain main roads and bridges under the Highways and Locomotives (Amendment) Act, 1878 (41 & 42 Vict. c. 77), s. 20.

Sub-s. (iv.).

When sessions houses or other premises generally used for the purpose of the administration of justice are also occupied and used by county councils for county administrative purposes, the county councils are rateable in respect of the occupation by them in proportion to the value of their occupation (*Middlesex County Council* v. *St. George's, Hanover Square*, [1897] 1 Q. B. 64; 66 L. J. Q. B. 101; 75 L. T. 464; 45 W. R. 215; 61 J. P. 38;

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subject as to the use of buildings by the quarter sessions and the justices to the provisions of this Act respecting the joint committee of quarter sessions and the county council;

(v.) The licensing under any general Act of houses and other places for music or for dancing, and the granting of licences under the Racecourses Licensing Act, 1879; 42 & 43 Vict. c. 18.

(vi.) The provision, enlargement, maintenance, management, and visitation of and other dealing with asylums for pauper lunatics;

(vii.) The establishment and maintenance of and the contribution to reformatory and industrial schools;

(viii.) Bridges and roads repairable with bridges, and any powers vested by the Highways and Locomotives (Amendment) Act, 1878, in the county authority; 41 & 42 Vict. c. 77.

(ix.) The tables of fees to be taken by and the costs to be allowed to any inspector, analyst, or person holding any office in the county other than the clerk of the peace and the clerks of the justices;

(x.) The appointment, removal, and determination of salaries, of the county treasurer, the county surveyor, the public analysts, any officer under the Explosives Act, 1875, and any officers whose remuneration is paid out of the county rate other than the clerk of the peace and the clerks of the justices; 38 & 39 Vict. c. 17.

(xi.) The salary of any coroner whose salary is payable out

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*Worcestershire County Council* v. *Worcester Union*, [1897] 1 Q. B. 480; 66 L. J. Q. B. 323; 76 L. T. 138; 45 W. R. 309; overruling *Nicholson* v. *Holborn Union*, 18 Q. B. D. 161; 56 L. J. M. C. 54; 55 L. T. 775; 34 W. R. 230; 51 J. P. 341). Sub-s. (iv.).

Pauper lunatic asylums are provided for counties and boroughs under the Lunacy Act, 1890 (53 & 54 Vict. c. 5), as amended by the Lunacy Act, 1891 (54 & 55 Vict. c. 65). Sub-s. (vi.).

The principal Acts affecting reformatory and industrial schools having any reference to poor law matters are the Reformatory Schools Act, 1866 (29 & 30 Vict. c. 117); the Industrial Schools Act, 1866 (29 & 30 Vict. c. 118); the Reformatory and Industrial Acts Amendment Act, 1872 (35 & 36 Vict. c. 21); the Elementary Education (Industrial Schools) Act, 1879 (42 & 43 Vict. c. 48); the Industrial Schools Acts Amendment Act, 1880 (43 & 44 Vict. c. 15); the Reformatory and Industrial Schools Act, 1891 (54 & 55 Vict. c. 23); the Industrial Schools Acts Amendment Act, 1894 (57 & 58 Vict. c. 33); and the Reformatory and Industrial Schools (Channel Islands, Children) Act, 1895 (58 & 59 Vict. c. 17). Sub-s. (vii.).

A county council is rateable to the poor rate in respect of their occupation of a certified industrial school established under the Industrial Schools Acts, 1866 and 1872, and vested in the county council by this sub-section. *Durham County Council* v. *Chester-le-Street Assessment Committee*, [1891] 1 Q. B. 330; 60 L. J. M. C. 9; 63 L. T. 461; 39 W. R. 188; 54 J. P. 759.

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of the county rate, the fees, allowances, and disbursements allowed to be paid by any such coroner, and the division of the county into coroners' districts, and the assignment of such districts;

(xii.) The division of the county into polling districts for the purposes of Parliamentary elections, the appointment of places of election, the places of holding courts for the revision of the lists of voters, and the costs of and other matters to be done for the registration of Parliamentary voters;

(xiii.) The execution as local authority of the Acts relating to contagious diseases of animals, to destructive insects, to fish conservancy, to wild birds, to weights and measures, and to gas meters, and of the Local Stamp Act, 1869;

32 & 33 Vict. c. 49.

49 & 50 Vict. c. 38.

(xiv.) Any matters arising under the Riot (Damages) Act, 1886;

(xv.) The registration of rules of scientific societies under the Act of the session of the sixth and seventh years of the reign of Her present Majesty, chapter thirty-six; the registration of charitable gifts under the Act of the session of the fifty-second year of the reign of George the Third, chapter one hundred and two; the certifying and recording of places of religious worship under the Act of the session of the fifty-second year of the reign of George the Third, chapter one hundred and fifty-five; the confirmation and record of the rules of loan societies under the Act of the session of the third and fourth years of the reign of Her present Majesty, chapter one hundred and ten; and

(xvi.) Any other business transferred by this Act.

Transfer of certain powers under local Acts.

IV. Where it appears to the Local Government Board that any powers, duties, or liabilities of any quarter sessions or justices, or any committee thereof, under any local Act are similar in character to the powers, duties, and liabilities transferred to county councils by this Act, or relate to property transferred to a county council by this Act, the Board may, if they think fit, make a provisional order for transferring such powers, duties, and liabilities to the county council.

Appointment of coroners by county council.

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V.—(1) After the appointed day a coroner for a county shall not be elected by the freeholders of the county, and on

Note.

The Scientific Societies Act, 1843 (6 & 7 Vict. c. 36), provides for the exemption from rating of premises occupied by scientific and literary societies constituted according to certain rules.

Sub-s. (xv.).

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For the making of provisional orders, see sect. 87, *post*.

Note.

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any vacancy occurring in the office of a coroner for a county, who is elected to that office in pursuance of a writ *de coronatore eligendo*, a like writ for the election of a successor shall be directed to the county council of the county instead of to the sheriff, and the county council shall thereupon appoint a fit person, not being a county alderman or county councillor, to fill such office, and in the case of a county divided into coroners' districts shall assign him a district; and any person so appointed shall have like powers and duties, and be entitled to like remuneration, as if he had been elected coroner for the county by the freeholders thereof.

(2) Where the district of any such coroner is situate wholly within any administrative county, the council of that county shall, subject as herein-after mentioned, appoint the coroner.

(3) Where the district of any such coroner is situate partly in one and partly in another administrative county forming part of an entire county, the joint committee for the entire county may arrange for the alteration in manner provided by law of the district, so that, on the next avoidance of the office of coroner of that district, or at any earlier time fixed by the joint committee when the alteration is made, the coroner's district shall not be situate in more than one administrative county.

(4) Until such arrangement is made, the joint committee for the entire county shall appoint the coroner for the said district, and the amount payable in respect of the salary, fees, and expenses of such coroner shall be defrayed in like manner as costs of the joint committee are directed by this Act to be defrayed.

(5) Nothing in this Act respecting the appointment of a coroner shall alter the jurisdiction of a coroner for the entire county, or any power of removing such coroner, whether by writ *de coronatore exonerando* or otherwise, and all writs for the election or removal of a coroner shall be altered so as to give effect to this section.

(6) Sections eleven and fourteen and the first schedule of the Coroners Act, 1887, and any other enactment relating to the election of a coroner for a county by the freeholders of such county or any district thereof, are hereby repealed as from the appointed day, without prejudice to anything done or suffered, or any legal proceeding commenced or penalty incurred before such repeal takes effect. 50 & 51 Vict. c. 71.

(7) A person who holds the office of coroner shall not be qualified to be elected as a county alderman or county councillor for the county for which he is a coroner.

Power of council as to bridges.

VI. The county council shall have power to purchase, or take over on terms to be agreed on, existing bridges not being

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at present county bridges, and to erect new bridges, and to maintain, repair, and improve any bridges so purchased, taken over, or erected.

Transfer to county council of certain powers of justices out of session.

VII. There shall be transferred to the county council on and after the appointed day the business of the justices of the county out of session—

(*a.*) In respect of the licensing of houses or places for the public performance of stage plays, and

38 & 39 Vict. c. 17.

(*b.*) In respect of the execution as local authority of the Explosives Act, 1875.

Reservation of business to quarter sessions.

VIII.—(1) Nothing in this Act shall transfer to a county council any business of the quarter sessions or justices in relation to appeals by any overseers or persons against the basis or standard for the county rate or against that or any other rate.

(2) All business of the quarter sessions or any committee thereof not transferred by or in pursuance of this Act to the county council shall be reserved to and transacted by the quarter sessions or committee thereof in the same manner, as far as circumstances admit, as if this Act had not passed.

Powers as to police.

IX.—(1) The powers, duties, and liabilities of quarter sessions and of justices out of session with respect to the county police shall, on and after the appointed day, vest in and attach to the quarter sessions and the county council jointly, and be exercised and discharged through the standing joint committee of the quarter sessions and county council appointed as herein-after mentioned:

19 & 20 Vict. c. 69.

(2) Provided that the powers conferred by section seven of the County and Borough Police Act, 1856, which requires constables to perform, in addition to their ordinary duties, such duties connected with the police as the quarter sessions may direct or require, shall continue to be exercised by the quarter sessions as well as by the said standing joint committee, and may also be exercised by the county council; and the said section shall be construed as if the county council and the said standing joint committee were therein mentioned as well as the quarter sessions.

(3) Nothing in this Act shall affect the powers, duties, and

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Sect. 8. Note. Sub-s. (1)

An appeal against the basis or standard for the county rate is given by sect. 17 of the County Rates Act, 1852 (15 & 16 Vict. c. 81), and against the rate by sect. 22 of that Act; and the powers, duties, and liabilities of overseers with respect to appeals in respect of the county rate, or the basis of the county rate is transferred to parish councils by the Local Government Act, 1894 (56 & 57 Vict. c. 73), sect. 6 (1) (*c*) (i).

liabilities of justices of the peace as conservators of the peace, or the obligation of the chief constable or other constables to obey their lawful orders given in that behalf.

Transfer to county council of powers of certain Government departments and other authorities.

X.—(1) After the passing of this Act it shall be lawful for the Local Government Board to make from time to time a provisional order for transferring to county councils—

(*a.*) Any such powers, duties, and liabilities of Her Majesty's Privy Council, a Secretary of State, the Board of Trade, the Local Government Board, or the Education Department, or any other Government department, as are conferred by or in pursuance of any statute and appear to relate to matters arising within the county, and to be of an administrative character: also

(*b.*) Any such powers, duties, and liabilities arising within the county, of any commissioners of sewers, conservators, or other public body, corporate or unincorporate (not being the corporation of a municipal borough or an urban or rural authority, or a school board, and not being a board of guardians) as are conferred by or in pursuance of any statute;

and such order shall make such exceptions and modifications as appear to be expedient, and also such provisions as appear necessary or proper for carrying into effect such transfer, and for that purpose may transfer any power vested in Her Majesty in Council:

(2) Provided that before any such order is made, the draft thereof shall be approved, if it relates to the powers, duties, or liabilities of a Secretary of State, or the Board of Trade, or any other Government department, by such Secretary of State, board, or department, and approved, if it affects the powers, duties, or liabilities of any commissioners, conservators, or body, corporate or unincorporate, by such commissioners, conservators, or body; and every such provisional order shall be of no effect until it is confirmed by Parliament.

(3) If any such powers, duties, or liabilities as are referred to in any provisional order under this section arise within two or more counties, they may be transferred to the county councils of such two or more counties jointly, and may be exercised and discharged by a joint committee of such councils.

(4) The Act of Parliament confirming any provisional order made under this section shall be a public general Act.

Entire maintenance of main roads by county council. 41 & 42 Vict. c. 77.

XI.—(1) Every road in a county, which is for the time being a main road within the meaning of the Highways and Locomotives (Amendment) Act, 1878, inclusive of every bridge carrying such road if repairable by the highway authority, shall, after the appointed day, be wholly maintained and repaired by the council of the county in which the road is

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situate, and such council, for the purpose of the maintenance, repair, improvement, and enlargement of, and other dealing with such road, shall have the same powers and be subject to the same duties as a highway board, and may further exercise any powers vested in the council for the purpose of the maintenance and repair of bridges, and the enactments relating to highways and bridges shall apply accordingly; and the county council shall have the same powers as a highway board for preventing and removing obstructions, and for asserting the right of the public to the use and enjoyment of the roadside wastes; and the execution of this section shall be a general county purpose, and the costs thereof shall be charged to the general county account.

(2) Provided that any urban authority may, within twelve months after the appointed day, or in case of a road in the district of such authority becoming a main road at any subsequent date then within twelve months after that date, claim to retain the powers and duties of maintaining and repairing a main road within the district of such authority, and thereupon they shall be entitled to retain the same, and, for the purpose of the maintenance, repair, improvement, and enlargement of, and other dealing with such road, shall have the same powers and be subject to the same duties as if such road were an ordinary road vested in them, and the council shall make to such authority an annual payment towards the costs of the maintenance and repair, and reasonable improvement connected with the maintenance and repair of such road.

(3) The amount of such payment shall be such annual sum as may be from time to time agreed on, or in the absence of agreement may be determined by arbitration of the Local Government Board.

(4) The county council and any district council may from time to time contract for the undertaking by the district council of the maintenance, repair, improvement, and enlargement of, and other dealing with any main road, and, if the county council so require, the district council shall undertake the same, and such undertaking shall be in consideration of such annual payment by the county council for the costs of the undertaking as may from time to time be agreed upon, or, in case of difference, be determined by arbitration of the Local Government Board; and for the purposes of such undertaking the district council shall have the same powers and be subject to the same duties and liabilities as if the road were an ordinary road vested in them.

(5) Provided that in no case shall a county council make any payment to a district council towards the costs of such undertaking as respects any road, or towards the costs of the maintenance, repair, or improvement of any road by an urban authority, until the county council are satisfied by the report of their surveyor, or such other person as the county council

may appoint for the purpose, that the road has been properly maintained and repaired, or that the improvement or enlargement of or other dealing with the road, as the case may be, has been properly executed.

(6) A main road and the materials thereof, and all drains belonging thereto, shall, except where the urban authority retain the powers and duties of maintaining and repairing such road, vest in the county council, and where any sewer or other drain is used for any purpose in connexion with the drainage of any main road, the county council shall continue to have the right of using such sewer or drain for such purpose, and if any difference arises between a county council and any highway or sanitary authority as respects the authority in whom the drain is vested, or as to the use of any sewer or other drain, the council or the highway or sanitary authority may require such difference to be referred to arbitration, and the same shall be referred to arbitration in manner provided by this Act.

(7) Where a county council declare a road to be a main road, such declaration shall not take effect until the road has been placed in proper repair and condition to the satisfaction of the county council.

(8) If at any time the county council are satisfied, on the report of their surveyor or other person appointed by them for the purpose, that any portion of a main road, the maintenance and repair of which are undertaken by any district council, is not in proper repair and condition, the county council may cause notice to be given to such district council, requiring them to place the road in proper repair and condition; and, if such notice is not complied with within a reasonable time, the county council may do everything that seems to them necessary to place the road in proper repair and condition, and the expenses of so doing shall be a debt of the said district council to the county council.

(9) If any difference arises under this section between a county council and a district council as to the refusal of the county council to make a payment under this section to the district council in respect of any undertaking or road, or as to a road having been placed in proper repair and condition previously to its becoming a main road, or as to any notice given to the district council by the county council to place a road in proper repair and condition, such difference shall, if either council so require, be referred to the arbitration of the Local Government Board.

(10) The county council may, if they think fit, contribute towards the costs of the maintenance, repair, enlargement, and improvement of any highway or public footpath in the county, although the same is not a main road.

(11) Every authority having any power or duty to light the roads in their district shall have the same power and duty to light any main road in their district.

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(12) Anything authorized or required by law to be done by or to a highway or road authority shall, as respects a main road maintained by a county council, be authorized or required to be done by or to that council; and every authority having any power to break up any road in their district for the purpose of sewerage or otherwise shall have the like power of breaking up any main road in their district, but if the road is broken up the authority shall repair it to the satisfaction of the county council maintaining such road, and if it is not repaired to the satisfaction of the county council, that council may cause the necessary repairs to be done and may charge the costs against the authority, and the same shall be a debt due from the authority to the council.

41 & 42 Vict. c. 77.

(13) Section twenty of the Highways and Locomotives (Amendment) Act, 1878, shall apply as if it were herein re-enacted and in terms made applicable to this section.

Roads and tolls in Isle of Wight.

XII.—(1) After the appointed day, tolls shall cease to be taken on any road maintained and repaired by the Isle of Wight Highway Commissioners, under the Isle of Wight Highway Acts, 1813 and 1883, and after such day the Highways and Locomotives (Amendment) Act, 1878, as amended by this Act, shall apply to the Isle of Wight, and to every such road above mentioned, in like manner as if it were ceasing within the meaning of the said Act to be a turnpike road, and the Act

44 & 45 Vict. c. 72.

of the session of the forty-fourth and forty-fifth years of the reign of Her present Majesty, chapter seventy-two, shall be repealed.

(2) Until provision is otherwise made by Parliament, or by a provisional order confirmed by Parliament, the repair and maintenance of the said roads shall continue to be undertaken by the said commissioners, and the county council for the county of Southampton shall pay such commissioners, in respect of the said repairs and maintenance, and of the expenses of the commissioners, such sums as may be agreed upon, or, in case of difference, be settled by arbitration under this Act, and the provisions of this Act with respect to main roads shall apply as if the commissioners were a district council who had undertaken the maintenance and repair of such road.

Adaptation of Act to South Wales roads.

XIII.—(1) After the appointed day no county road rate shall be levied, and tolls shall cease to be taken on any road maintained and repaired by a county roads board in South Wales,

7 & 8 Vict. c. 91.

in pursuance of the South Wales Turnpike Trusts Act, 1844, and the Acts amending the same, and after such day the Highways and Locomotives (Amendment) Act, 1878, as amended by this Act, shall apply to every county in South Wales as if the highway districts in that county had been

25 & 26 Vict. c. 61.

constituted under the Highway Act, 1862, and the Highway Act, 1864, or one of those Acts, and shall apply to every such

27 & 28 Vict. c. 101.

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road as above mentioned, in like manner as if it were ceasing, within the meaning of the said Act, to be a turnpike road.

(2) On the appointed day every county roads board and district roads board in each county shall cease to exist, and the property, debts, and liabilities of any such board shall be transferred to the county council, and that council shall be the successors of the county and districts roads boards, and the provisions of this Act, with respect to the transfer of the property, debts, and liabilities of quarter sessions to county councils, and with respect to the officers and servants of quarter sessions, shall apply as if they were herein re-enacted and made applicable to the property, debts, liabilities, and officers of the said county and district roads boards.

(3) For the following purposes (that is to say):

(*a.*) For giving effect to the said transfer of the property, debts, and liabilities, and for controlling the officers and servants transferred by this section to the county council, and otherwise winding up the affairs of the county and district roads boards; and

(*b.*) For the purpose of the appointment of the surveyor of a highway board, the alteration of a highway district, and other purposes relating to highway boards:

the county council of every county in South Wales shall have all the powers of a county roads board in a county under the South Wales Turnpike Trusts Act, 1844, and the Acts amending the same, so, however, that nothing shall confer on the county council any power to levy any toll or county road rate.

Power to county council to enforce provisions of 39 & 40 Vict. c. 75.

XIV.—(1) On and after the appointed day a county council shall have power, in addition to any other authority, to enforce the provisions of the Rivers Pollution Prevention Act, 1876 (subject to the restrictions in that Act contained), in relation to so much of any stream as is situate within, or passes through or by, any part of their county, and for that purpose they shall have the same powers and duties as if they were a sanitary authority within the meaning of that Act, or any other authority having power to enforce the provisions of that Act, and the county were their district.

(2) Any county council shall have power to contribute towards the costs of any prosecution under the said Act instituted by any other county council or by any urban or rural authority.

(3) The Local Government Board, by provisional order made on the application of the council of any of the counties concerned, may constitute a joint committee or other body representing all the administrative counties through or by which a river, or any specified portion of a river, or any tributary thereof, passes, and may confer on such committee or body all of the powers of a sanitary authority under the Rivers

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Pollution Prevention Act, 1876, or such of them as may be specified in the order; and the order may contain such provisions respecting the constitution and proceedings of the said committee or body as may seem proper, and may provide for the payment of the expenses of such committee or body by the administrative counties represented by it, and for the audit of the accounts of such committee or body, and their officers.

Council to have power to oppose bills in Parliament.

XV. The county council of an administrative county shall have the same powers of opposing bills in Parliament, and of prosecuting or defending any legal proceedings necessary for the promotion or protection of the interests of the inhabitants of the county, as are conferred on the council of a municipal borough by the Act of the thirty-fifth and thirty-sixth years of Victoria, chapter ninety-one; and subject as herein-after provided the provisions of that Act shall extend to a county council as if such council were included in the expression "governing body," and the administrative county were the district in the said Act mentioned.

Provided that—

(*a.*) No consent of owners and ratepayers shall be required for any proceedings under this section;

(*b.*) This section shall not empower a county council to promote any bill in Parliament, or to incur or charge any expense in relation thereto.

Power of county councils to make byelaws.

45 & 46 Vict. c. 50.

38 & 39 Vict. c. 55.

XVI.—(1) A county council shall have the same power of making byelaws in relation to their county, or to any specified part or parts thereof, as the council of a borough have of making byelaws in relation to their borough under section twenty-three of the Municipal Corporations Act, 1882, and section one hundred and eighty-seven of the Public Health Act, 1875, shall apply to such byelaws:

(2) Provided that byelaws made under the powers of this section shall not be of any force or effect within any borough.

Power of county councils to appoint medical officer of health.

XVII.—(1) The council of any county may, if they see fit, appoint and pay a medical officer of health, or medical officers of health, who shall not hold any other appointment or engage in private practice without express written consent of the council.

(2) The county council and any district council may from time to time make and carry into effect arrangements for rendering the services of such officer or officers regularly available in the district of the district council, on such terms as to the contribution by the district council to the salary of the medical officer, or otherwise, as may be agreed, and the medical officer shall have within such district all the powers and duties of a medical officer appointed by a district council.

(3) So long as such an arrangement is in force, the obligation of the district council under the Public Health Act, 1875, to

appoint a medical officer of health shall be deemed to be satisfied without the appointment of a separate medical officer. Sect. 17.

Qualification of medical officers of health.

XVIII.—Except where the Local Government Board, for reasons brought to their notice, may see fit in particular cases specially to allow, no person shall hereafter be appointed the medical officer of health of any county or county district, or combination of county districts, or the deputy of any such officer, unless he be legally qualified for the practice of medicine, surgery, and midwifery.

(2) No person shall after the first day of January one thousand eight hundred and ninety-two be appointed the medical officer of health of any county or of any such district or combination of districts, as contained, according to the last published census for the time being, a population of fifty thousand or more inhabitants, unless he is qualified as above-mentioned, and also either is registered in the medical register as the holder of a diploma in sanitary science, public health, or State medicine under section twenty-one of the Medical Act, 1886, or has been during three consecutive years preceding the year one thousand eight hundred and ninety-two a medical officer of a district or combination of districts, with a population according to the last published census of not less than twenty thousand, or has before the passing of this Act been for not less than three years a medical officer or inspector of the Local Government Board.

49 & 50 Vict. c. 48.

Power of county council as to report of medical officer of health.

XIX.—(1) Every medical officer of health for a district in any county shall send to the county council a copy of every periodical report of which a copy is for the time being required by the regulations of the Local Government Board to be sent to the board, and if a medical officer fails to send such copy the county council may refuse to pay any contribution, which otherwise the council would in pursuance of this Act pay, towards the salary of such medical officer.

(2) If it appears to the county council from any such report that the Public Health Act, 1875, has not been properly put in force within the district to which the report relates, or that any other matter affecting the public health of the district requires to be remedied, the council may cause a representation to be made to the Local Government Board on the matter.

*Financial Relations between Exchequer and County, and Contributions by County for Costs of Union Officers.*

Payment to county council of

XX.—(1) After the financial year ending on the thirty-first day of March next after the passing of this Act, the Commissioners of Inland Revenue shall from time to time, in such Sect. 20.

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The annual grant under the Agricultural Rates Act, 1896 (59 & 60 Vict. c. 16), has also to be paid into the local taxation account. Note. Sub-s. (1).

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proceeds of duties on local taxation licences.

manner and under such regulations as the Treasury from time to time prescribe, pay into the Bank of England to such account (in this Act referred to as the local taxation account) as may be fixed by the regulations, such sums as may be ascertained in manner provided by the regulations to be the proceeds of the duties collected by those commissioners in each administrative county in England and Wales on the licences (in this Act referred to as local taxation licences) specified in the first schedule to this Act, and for the purposes of this section all penalties and forfeitures recovered in respect of the said duties shall be considered as part of the proceeds of the duties.

(2) The amount ascertained as aforesaid to have been collected in each county in respect of duties on local taxation licences shall, from time to time, be certified by the Commissioners of Inland Revenue, and paid under the direction of the Local Government Board out of the local taxation account to the council of such county. The commissioners may, if they think fit, vary such certificate, but unless so varied, their certificate shall be conclusive.

(3) It shall be lawful for Her Majesty the Queen from time to time by Order in Council made on the recommendation of the Treasury to transfer to county councils as from the date specified in the order the power to levy the duties on all or any of the local taxation licences, and after such date every county council and their officers shall (subject nevertheless to any exceptions and modifications contained in the order) have within their county, for the purpose of levying the duties transferred, the same powers, duties and liabilities as the Commissioners of Inland Revenue and their officers have with respect to the duties transferred, and to the issue and cancellation of licences on which the duties are imposed, and other matters under the Acts relating to those duties and licences, and all enactments relating to those duties and licences, and to punishments and penalties connected therewith, shall apply accordingly.

(4) Provided as follows :—

(i.) All penalties and forfeitures recovered by a county council in pursuance of this section shall, instead of being paid to the Exchequer, be paid to the county fund and carried to the same account as the duties.

(ii.) The county council shall have, as respects the said duties and licences, the power given by the said Acts to the Treasury for the restoration of any forfeiture, and the mitigation or remission of any penalty or any part thereof.

(iii.) Nothing in this section shall confer on the county council any special privileges of the Crown as respects legal proceedings.

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(5) On a transfer under this section of the power to levy the duties on any licence—

(*a.*) The county council shall provide for issuing, in different parts of their county, their licence for the same purpose, so as to enable persons to obtain it near their residences; and

(*b.*) If such licence has operation in any place in the United Kingdom outside the county in which it is issued, the licence of a county council for the same purpose shall continue to have the like operation outside the county in such place.

Grant to county council of portion of probate duty.

XXI.—(1) After the financial year ending the thirty-first day of March next after the passing of this Act, the Commissioners of Inland Revenue shall, from time to time, in such manner and under such regulations as the Treasury may from time to time prescribe, pay into the Bank of England to the local taxation account, such sums as may be ascertained in manner provided by the regulations to be four-fifths parts of one-half of the proceeds of the sums collected by them in respect of the probate duties, and for the purpose of this section "probate duties" means the stamp duties charged on the affidavit required from persons applying for probate or letters of administration in England, Wales, or Ireland, and on the inventory exhibited and recorded in Scotland, and also the stamp duties charged on such accounts of personal and movable property as are specified in section thirty-eight of the Customs and Inland Revenue Act, 1881, and also includes the proceeds of all penalties and forfeitures recovered in relation to such stamp duties.

44 & 45 Vict. c. 12.

Distribution of probate duty grant.

XXII.—(1) The sums paid in pursuance of this Act to the local taxation account, in respect of the proceeds of the probate duties (in this Act referred to as the "probate duty grant"), shall, until Parliament otherwise determine, be distributed among the several counties in England and Wales in proportion to the share which the Local Government Board certify to have been received by each county during the financial year ending the thirty-first day of March next before the passing of this Act out of the grants heretofore made out

Sect. 21. Note.

By the Finance Act, 1894 (57 & 58 Vict. c. 30), s. 19, it is provided that in substitution for the grant out of the probate duties under this Act there shall be paid, out of the proceeds of the estate duty derived from personal property, such sum as the commissioners, in accordance with regulations made by the Treasury under this Act, may determine to be equal to one and a half per cent. on the net value of such of the property in respect of which estate duty is leviable as would, if the Finance Act had not been passed, have been chargeable with the duty imposed by the Customs and Inland Revenue Act, 1881 (44 & 45 Vict. c. 12), s. 27, on Inland Revenue affidavits.

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of the Exchequer in aid of local rates, which will cease to be granted after the passing of this Act, and the share to be so certified shall be estimated in such manner as the Local Government Board direct.

(2) In the case of the six counties of South Wales and the Isle of Wight there shall be added to the amount actually received out of such grants as aforesaid such additional sum as the Local Government Board certify to be the amount which each of the said counties and the Isle of Wight would have received, if the roads maintained by the county roads boards or the highway commissioners had been main roads.

(3) The proportion to be paid to each county shall from time to time be paid under the direction of the Local Government Board to the county council out of the local taxation account. The Board may, if they think proper, vary their certificate, but unless it is so varied, their certificate shall be conclusive.

Application of duties on local taxation licences and probate duty grant.

XXXIII.—(1) All sums from time to time received by a county council in respect of—

(*a.*) The duties on the local taxation licences, whether collected by the Commissioners of Inland Revenue or by the county council; and

(*b.*) The probate duty grant,

shall be paid to the county fund and carried to a separate account, in this Act referred to as the Exchequer contribution account.

(2) All sums for the time being standing to the Exchequer contribution account shall be applied—

(i.) In paying the costs incurred in respect thereof, or otherwise chargeable thereon; and

(ii.) In payment of the sums required by this Act to be paid by the county council in substitution for local grants; and

(iii.) In payment of the grant required by this Act to be made by the county council in respect of costs of union officers; and

(iv.) In repaying to the general county account of the county

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Note.

Sub-s. (2).

By the Technical Instruction Act, 1891 (54 & 55 Vict. c. 4), s. 2, any monies received by a county council under Local Taxation (Customs and Excise) Act, 1890 (53 & 54 Vict. c. 60), s. 1 (1) (b), from beer and spirit duties and directed by the council to be set aside for the purposes of technical or manual instruction shall, although not expended or specifically contributed or allotted in whole or in part before the end of the financial year, remain applicable for such purposes, and shall not be applied in the manner provided by this and the following sub-sections until the council shall have made an order for such application.

fund the costs on account of general county purposes for which the whole area of the county is liable to be assessed to county contributions;

and shall be so applied in the order above mentioned.

(3) If any surplus remains after paying the above costs and sums, such proportion of the surplus, as the total rateable value of the area of each quarter sessions borough exempt from contributing to any special county purpose, bears to the rateable value of the whole county, shall be paid to the council of that borough, and the remainder shall be applied as follows:

(4) It shall first be applied towards repaying to the proper special accounts of the county fund, the costs on account of which the area of the county, exclusive of such quarter sessions boroughs, is liable to be assessed to county contributions;

(5) Provided that where any of the said quarter sessions boroughs to which a payment of a proportion of the surplus is made as aforesaid is liable to be assessed to county contributions for any of such last-mentioned costs, there shall be deducted from the amount payable to the council of that borough in respect of the said surplus, such sum as would have been raised within the area of the borough if the amount of such costs had been raised by county contributions.

(6) If there remains any sum after repaying the said costs to the said accounts of the county fund, such residue shall be divided as follows, that is to say, such proportion thereof, as the total rateable value of the area of each borough maintaining a separate police force under the County and Borough Police Acts, and not being a quarter sessions borough above-mentioned, bears to the rateable value of the whole county, after deduction of the rateable value of every quarter sessions borough above-mentioned, shall be paid to the council of the borough, and the rest shall be applied towards repaying to the proper special accounts of the county fund the costs of the police, and other costs on account of which the area of the county, exclusive of all the said boroughs, is liable to be assessed to county contributions. Where a town, not being a borough, maintains its own police and receives any payment from the county council in pursuance of this Act towards the pay and clothing of such police, this enactment shall apply to such town as if it were a borough, and as if the sanitary authority therein were the council of the borough.

(7) If any balance remains after all the above payments are made, and is in excess of what the county council consider necessary to carry forward to the next account, such excess shall be divided among the district councils other than the councils of quarter sessions or other boroughs to whom portions of the surplus have been paid under the foregoing provisions of this section, and shall be so divided in proportion to the rateable value of the area of each district.

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(8) Where any part of a county is situate within the metropolitan police district, this section shall apply as if that part were the area of a borough maintaining a separate police force, save that the sum which would be payable to such borough shall be paid to the district councils of the county districts wholly or partly situate in such part, and shall be divided among such district councils in proportion to the rateable value of the area of each district, or of so much thereof as is within the metropolitan police district.

(9) All sums paid in pursuance of this section shall be carried, if paid to the council of a borough, to the borough fund, and if paid to a district council other than the council of a borough, to the district fund, and shall be applied to purposes for which the whole of the borough or district is liable to be rated.

(10) The rateable value for the purpose of this section, shall be determined according to the standard or basis for county contributions for the time being.

Payments by county council in substitution for annual local grants out of Exchequer in aid of local rates.

XXIV. Whereas certain grants heretofore made out of the Exchequer in aid of local rates (in this Act referred to as local grants) will by reason of the duties on the local taxation licences and the probate duty grant being by this Act made payable to local authorities, cease, it is therefore hereby enacted as follows:—

(1) So much of any enactment as requires or authorizes payment out of the Exchequer of any local grant in substitution for which the county council is required by this Act to make any payment is hereby repealed as from the thirty-first day of March next after the passing of this Act without prejudice to any right accrued before that day.

(2) In substitution for local grants, the council of each county shall from time to time as from the said day pay out of the county fund and charge to the Exchequer contribution account the following sums, that is to say—

(*a.*) They shall pay to the guardians for every poor law union or officer for any other area wholly or partly in the county (as the case may be) such sums as the Local Government Board from time to time certify to be due

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Note.

Sub-s. (9).

The district fund is, in urban districts, the general district fund raised under sect. 209 of the Public Health Act, 1875. In rural districts the sums paid must be applied to purposes for which general expenses are raised under sects. 229, 230 of that Act.

Sub-s. (10).

For "rateable value" where there is no standard or basis for the county rate, see sect. 100, *infra*.

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Sect. 24.

Note.

Sub-s. (2) (*a*).

For grants to public vaccinators, see the Vaccination Act, 1867 (30 & 31 Vict. c. 84), s. 5.

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from the said council in substitution for the local grants towards the remuneration of teachers in poor law schools, and for payments to public vaccinators under section five of the Vaccination Act, 1867; and

30 & 31 Vict. c. 84.

(*b*) They shall pay to the guardians of every poor law union the school fees paid for pauper children sent from a workhouse to a public elementary school outside the workhouse; and

(*c*.) They shall pay to every local authority, for any area wholly or partly in the county, by whom a medical officer of health or inspector of nuisances is paid, one-half of the salary of such officer, where his qualification, appointment, salary, and tenure of office are in accordance with the regulations made by order under the Public Health Act, 1875, or any Act repealed by that Act, but if the Local Government Board certify to the council that such medical officer has failed to send to the Local Government Board such report and returns as are for the time being required by the regulations respecting the duties of such officer made by order of the board under any of the said Acts, a sum equal to such half of the salary shall be forfeited to the Crown, and the council shall pay the same into Her Majesty's Exchequer and not to the said local authority; and

38 & 39 Vict. c. 55.

(*d*.) They shall pay to the guardians paying the registrars of births and deaths for any district wholly or partly in the county a sum equal to the amount paid out of local grants towards the remuneration of the registrars paid by those guardians during the financial year ending on the thirty-first day of March next after the passing of this Act; and

(*e*.) They shall transfer to that account of the county fund to which the maintenance of any pauper lunatic chargeable to the county is charged, a sum equal to four shillings a week for each such pauper lunatic, for whom the net charge upon the county council, after deducting any amount received by the county council for the maintenance of such lunatic from any source

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Note.

Sub-s. (2) (*c*).

This sub-section is by sect. 108 of the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), to be construed as if the reference to the Public Health Act, 1875, included a reference to that Act.

Sub-s. (2) (*d*).

Provision is made by the Births and Deaths Registration Act, 1836 (6 & 7 Will. 4, c. 86), s. 29, for the payment of registrars by guardians.

Sub-s. (2 *e*)

Under the Lunacy Act, 1890 (53 & 54 Vict. c. 5), s. 290, a pauper lunatic may be made chargeable to the county where he is found when he is not settled in the union from which he was sent to the asylum and his place of settlement cannot be ascertained.

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other than local rates, is equal to or exceeds four shillings a week thoroughout the period of maintenance for which the sum is so transferred; and

(*f.*) They shall pay to the guardians of every poor law union wholly or partly in the county a sum equal to four shillings a week for each pauper lunatic chargeable to that union, and maintained in an asylum, registered hospital, or licensed house, for whom the net charge upon the guardians, after deducting any amount received by them for the maintenance of such lunatic from any source other than local rates, is equal to or exceeds four shillings a week throughout the period of maintenance for which the sum is so paid; and

(*g.*) They shall pay to the council of each borough to which the maintenance of any pauper lunatic is chargeable, a sum equal to four shillings a week for each such pauper lunatic for whom the net charge upon the council of the borough, after deducting any amount received by them for the maintenance of such lunatic from any source other than local rates, is equal to or exceeds four shillings a week throughout the period of maintenance for which the sum is so paid; and

(*h.*) They shall transfer to that account of the county fund to which the compensation payable to the clerk of the peace of a county, or any other officer of quarter sessions for the county, under section eighteen of the Act of the session of the eighteenth and nineteenth years of the reign of Her present Majesty, chapter one hundred and twenty-six is charged, the amount of such compensation; and

(*i.*) They shall, subject to the provisions of this Act, transfer to the police account of the county fund a sum equal to one-half of the costs of the pay and clothing

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Sect. 24. Note. Sub-s. (2) (*f*).

A pauper lunatic is chargeable to the union from which he was sent to the asylum, &c., until it has been established that he is settled in some other union, or that it cannot be ascertained in what place he is settled (Lunacy Act, 1890 (53 & 54 Vict. c. 5), s. 286). By sect. 57 (3) of that Act a lunatic boarded out by the authorities of any asylum shall, for the purposes of this sub-section, be deemed to be a lunatic maintained in an asylum.

Sub-s. (2) (*g*).

By sect. 290 of the Lunacy Act, 1890 (53 & 54 Vict. c. 5), a pauper lunatic may be made chargeable to the borough where he is found, if he is not settled in the union from which he was sent to the asylum, &c., and his settlement cannot be ascertained, and the borough from which he was sent is a quarter sessions borough, which is free from contributing to the payment of the expenses of pauper lunatics chargeable to the county in which the borough is situate.

of the police of the county during the preceding year; and

(*j.*) They shall, subject to the provisions of this Act, pay to the council of each borough maintaining a separate police force under the County and Borough Police Acts, one-half of the costs of the pay and clothing of the police of that borough during the preceding year; and

(*k.*) They shall, if within their county sums are raised by rates for the purpose of the metropolitan police, pay to the receiver for the metropolitan police district in each year, a sum bearing such proportion to the sum actually raised in the same year by rates from the parishes in that county for the said purpose as a Secretary of State certifies to be the proportion which would have been contributed out of the Exchequer under the arrangement in force during the financial year next before the passing of this Act.

(3) A reference in sections one hundred and eighty-nine and one hundred and ninety-one of the Public Health Act, 1875, to officers any portion of whose salary is paid out of monies provided by Parliament shall be construed to refer to those officers in respect of whose salaries payment is made by a county council in pursuance of this section.

(4) Where any payment towards the pay and clothing of the police of any town has been made in pursuance of section eighteen of the County and Borough Police Act, 1856, which authorizes such payment to be made until the discontinuance of the police, the like payment shall, notwithstanding anything in this section, be made by the county council to the authority of such town until such discontinuance.

19 & 20 Vict. c. 69.

(5) Where a sum is payable under this section to the guardians, authority, or officer of a union or other area, and such union or area is situate in more administrative counties than one, a proportionate part only of the sum otherwise payable shall be paid by the council of each of such counties to the guardians, authority, or officer, and the Local Government Board shall certify the proportionate part due from the council of each such county.

(6) The guardians, authority, or officer to whom a sum is payable under this section on the certificate of the Local Government Board, shall submit to the board their claim to the payment in such manner, and produce such evidence and comply with such rules as the board from time to time require or make, and the board shall fix the amount due on the like principles, and may impose the like conditions for the payment thereof as before the passing of this Act.

(7) The Local Government Board may, if they think fit, vary a certificate granted for the purposes of this section, but, unless so varied, it shall be conclusive.

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As to Secretary of State's power respecting efficiency of police.

XXV.—(1) If a Secretary of State withholds as respects the police of any county, his certificate under the County and Borough Police Act, 1856, that the police of the county has been maintained in a state of efficiency in point of numbers and discipline during the year ending on the twenty-ninth day of September then last past, the council of that county, in lieu of transferring any sum under the foregoing provisions of this Act to the police account of the county fund, shall forfeit to the Crown and shall pay into Her Majesty's Exchequer out of the county fund, and shall charge to the Exchequer contribution account of that fund, such sum as the Secretary of State certifies to be in his opinion equivalent to one-half of the cost of the pay and clothing of the police of the county during the said year.

19 & 20 Vict. c. 69.

(2) If a Secretary of State withholds, as respects the police of any borough, his certificate under the County and Borough Police Act, 1856, that the police of the borough has been maintained in a state of efficiency in point of numbers and discipline for the year ending on the twenty-ninth day of September then last past, no payment shall be made by the county council to the council of the borough in respect of one-half of the costs of the pay and clothing of the police of that borough during the said year, and such amount as a Secretary of State certifies to be in his opinion the equivalent of such one-half shall be transferred by the county council from the Exchequer contribution account to the general county account and applied to the general purposes of the county.

Grant by county council towards costs of officers of union.

XXVI.—(1) After the thirty-first day of March next after the passing of this Act, every county council, other than the London County Council, shall grant to the guardians of every poor law union wholly or partly in their county, an annual sum for the costs of the officers of the union and of district schools to which the union contributes; and, until Parliament otherwise determine, the said annual sum shall be such sum as the Local Government Board certify to have been expended by

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Note.

Sub-s. (1).

The grant by the London County Council is provided for by sect. 43, *infra*.

In the absence of any definition of the expression "officers of the union," the Local Government Board has expressed the opinion that it does not include the following: Collectors of poor rates, assistant overseers, officers of rural sanitary authorities, officers of school attendance committees, superintendent registrars, and registrars of births, deaths and marriages (Local Government Circular, January 10th, 1899). See definition of "officer" in sect. 100, *infra*.

As to district schools, see Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), ss. 40 *et seq.*, and notes thereto.

The grant under this sub-section will be paid out of the Exchequer contribution account, pursuant to sect. 23 (2) (iii.), *supra*.

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the guardians of each poor law union during the financial year ending the twenty-fifth day of March next before the passing of this Act, on the salaries, remuneration, and superannuation allowances of the said officers (other than teachers in poor law schools), and on drugs and medical appliances.

(2) Where a poor law union is situate in more counties than one, the payment under this section to the guardians of the union shall be borne by the counties in which each portion of such union is situate, in proportion to the rateable value of that portion, ascertained on such day as the Local Government Board may fix.

Supplemental provisions as to local taxation account and Exchequer contribution account.

XXVII.—(1) When a county council are required under the provisions of this or any other Act to pay any sum into Her Majesty's Exchequer, or to the Treasury, or to the receiver for the metropolitan police district, such sum shall be deducted from the amount payable under the provisions of this Act out of the local taxation account to such county council, and instead of being paid to the county council, shall be paid into Her Majesty's Exchequer, or to the receiver for the metropolitan police district, as the case requires.

(2) The account of the receipts and expenditure of the local taxation account shall be audited as a public account by the Comptroller and Auditor-General in accordance with such regulations as the Treasury may from time to time make.

(3) If at any time in any financial year the monies standing to the local taxation account are insufficient to meet such sums as the Local Government Board consider proper for the time being to pay thereout, the Local Government Board may borrow temporarily on the security of the said account, and of monies becoming payable thereto such sums as they require for the purpose of meeting such deficiency, and the Bank of England may lend such sums, but all sums so borrowed shall be repaid with the interest thereon during the same financial year out of monies payable to the said account.

*General Provisions as to Transfer.*

General provisions as to powers transferred to county council.

XXVIII.—(1) The county council shall, as respects the business by this Act transferred to them from quarter sessions or the justices out of sessions, be subject to the provisions and limitations in this Act specified, but, save as aforesaid, shall have and be subject to all the powers, duties, and liabilities, which the quarter sessions, or any committee thereof, or any justice or justices had or were subject to in respect of the business so transferred.

(2) The county council shall, with the exceptions herein-after

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Note. Sub-s. (2).

For mode of ascertaining the rateable value, see sect. 100, *infra*.

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mentioned, have power to delegate, with or without any restrictions or conditions as they may think fit, any powers or duties transferred to them by or in pursuance of this Act, either to any committee of the county council appointed in pursuance of this Act, or to any district council in this Act mentioned; the county council may also, without prejudice to any other power whether to appoint committees or otherwise, delegate to the justices of the county sitting in petty sessions any power or duty transferred by this Act to the county council in respect of the licensing of houses or places for the public performance of stage plays, and in respect of the execution as local authority of the Explosives Act, 1875, or of the Act relating to contagious diseases of animals.

38 & 39 Vict. c. 17.

(3) Provided that the county council shall not under this section delegate any power of raising money by rate or loan.

Summary proceeding for determination of questions as to transfer or powers.

XXIX. If any question arises, or is about to arise, as to whether any business, power, duty, or liability is or is not transferred to any county council or joint committee under this Act, that question, without prejudice to any other mode of trying it, may, on the application of a chairman of quarter sessions, or of the county council, committee, or other local authority concerned, be submitted for decision to the High Court of Justice in such summary manner as subject to any rules of court may be directed by the court; and the court, after hearing such parties and taking such evidence (if any) as it thinks just, shall decide the question.

Standing joint committee of quarter sessions and county council for the purpose of police, clerk of the peace, officers, &c.

XXX.—(1) For the purpose of the police, and the clerk of the peace, and of clerks of the justices, and joint officers, and of matters required to be determined jointly by the quarter sessions and the council of a county, there shall be a standing joint committee of the quarter sessions and the county council, consisting of such equal number of justices appointed by the quarter sessions and of members of the county council appointed by that council as may from time to time be arranged between the quarter sessions and the council, and in default of arrangement such number taken equally from the quarter sessions and the council as may be directed by a Secretary of State.

(2) The joint committee shall elect a chairman, and, in the case of an equality of votes for two or more persons as chairman, one of those persons shall be elected by lot.

(3) Any matter arising under this Act with respect to the police, or to the clerk of the peace, or to clerks of the justices, or to officers who serve both the quarter sessions or justices and the county council, or to the provision of accommodation for the quarter sessions or justices out of session or to the use by them or the police or the said clerks of any buildings, rooms, or premises, or to the application of the Local Stamp Act, 1869,

32 & 33 Vict. c. 49.

to any sums received by clerks to justices, or with respect to anything incidental to the above-mentioned matters, and any other matter requiring to be determined jointly by the quarter sessions and county council, shall be referred to and determined by the joint committee under this section; and all such expenditure as the said joint committee determine to be required for the purposes of the matters above in this section mentioned, shall be paid out of the county fund, and the council of the county shall provide for such payment accordingly. Sect. 30.

## PART II.

### APPLICATION OF ACT TO BOROUGHS, THE METROPOLIS, AND CERTAIN SPECIAL COUNTIES.

*Application of Act to Boroughs.*

Certain large boroughs named in the schedule to be county boroughs.

XXXI. Each of the boroughs named in the third schedule to this Act being a borough which on the first day of June one thousand eight hundred and eighty-eight, either had a population of not less than fifty thousand, or was a county of itself shall, from and after the appointed day, be for the purposes of this Act an administrative county of itself, and is in this Act referred to as a county borough.

Provided that for all other purposes a county borough shall continue to be part of the county (if any) in which it is situate at the passing of this Act, and if a separate commission of assize, oyer and terminer, or gaol delivery is not directed to be executed within the borough, the borough shall, for the purposes of any such commission, and of the service of jurors, and the making of jury lists, be part of the county in which it is specified in the said schedule to be deemed for the purposes of this Act to be situate.

Adjustment of financial relations between counties and county boroughs.

XXXII.—(1) An equitable adjustment respecting the distribution of the proceeds of the local taxation licences, and probate duty grant, and respecting all other financial relations, if any, between each county, and each county borough specified in the said schedule as being deemed for the purposes of this Act to be situate in that county, shall be made by agreement, within twelve months after the appointed day, between the councils of each county and each borough, and in default of any such agreement, by the commissioners appointed under this Act; and such adjustment shall provide, in the case of any expenses which may in future be incurred by the county

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Sect. 31. Note.

Grimsby, Newport (Mon.) and Oxford have been constituted county boroughs under the provisions of sect. 54 (1) (*d*), *infra*.

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Sect. 32. Note. Sub-s. (1).

The appointment of commissioners is provided for by sect. 61, *infra*.

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wholly or partly on behalf of the borough for the liability of such borough to contribute, and save as provided by this Act, any existing liability to contribute or to incur expense shall, after the appointed day, cease, and an equitable provision for such cessation shall be made in the adjustment.

(2) Where a county borough is specified in the said schedule as being deemed for the purposes of this Act to be situate in more than one county, the necessary adjustment shall be made between the counties.

(3) In such adjustment regard shall be had to the existing property, debts, and liabilities (if any) connected with the financial relations of the county and borough, and to the consideration that the county is not to be placed in any worse financial position by reason of the boroughs therein being constituted county boroughs, and that a county borough is not to be placed in a worse financial position than it would have been in if it had remained part of the county and had shared in the division of the sums received by a county in respect of the licence duties and the probate duty grant as provided by this Act, and to the amount of benefit and value of the services which the borough receives in return for existing contributions, if any, and to all the circumstances of each case which it appears equitable to consider, subject nevertheless to the following provisions :—

(*a.*) Where separate commissions of assize, oyer and terminer, and gaol delivery are not directed to be executed in a county borough, the borough council shall contribute a proper share of the costs of and incidental to the assizes of the county :

(*b.*) If the borough is not at the passing of this Act a quarter sessions borough, the borough council shall contribute a proper share of the costs of and incidental to the quarter sessions and petty sessions of the county, and of and incidental to the coroners of the county or any franchise therein, and if a grant of a court of quarter sessions is hereafter made to the borough, the borough shall redeem the liability to such contribution, on such terms as may be agreed upon, or, in default of agreement, may be determined by arbitration under this Act :

[Sub-par. (*c*), as to contribution of county boroughs in respect of county lunatic asylums, is repealed by the Lunacy Act, 1890 (53 & 54 Vict. c. 5).]

(*d.*) Each county borough shall be liable for the maintenance of pauper lunatics in like manner as any other county.

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Sect. 32. Note. Sub-s. (3).

The enactment relating to the chargeability of pauper lunatics to counties and county boroughs will be found in the Lunacy Act, 1890 (53 & 54 Vict. c. 5), s. 290.

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(4 In the adjustment of any financial relations other than the distribution of the proceeds of the licences and probate duty grant, no borough wholly or partially exempt from contributing to any object shall be rendered liable so to contribute or to contribute in greater proportion than at present.

(5) The provisions of Part III. of this Act with respect to the adjustment of property, income, debts, liabilities, and expenses, and to borrowing for the purpose shall apply as if the commissioners under this Act were the arbitrator in that part mentioned.

(6) Provided that at any time after the end of five years from the date of an agreement or award adjusting the financial relations of any county and borough, if the council of either the county or borough satisfy the Local Government Board that the adjustment has become inequitable, and that the councils are unable to agree on a new adjustment, the board shall appoint an arbitrator: and such arbitrator shall proceed to make a new equitable adjustment as if he were the commissioners under this Act, and the provisions of this Act shall apply accordingly. Any new adjustment made by agreement, or by the award of an arbitrator under this section, may, after the expiration of five years from the date of such agreement or award, be altered either by agreement or by arbitration as above mentioned.

(7) Until any adjustment in pursuance of this section has come into operation, the county or borough council shall pay out of the county or borough fund to the borough or county council, as the case may be, the average annual amount which during the three years next before the appointed day has been expended by the county for the benefit of the borough, or contributed by the borough to the county, as the case may be, but any sum so paid shall be taken into account in the making of the adjustment, and the adjustment shall be made so as to take effect as from the appointed day.

(8) Any contribution by a county borough to the county in pursuance of this section shall be required and made in accordance with section one hundred and fifty-three of the Municipal Corporations Act, 1882, and that section, except so far as relates to the appointment of an arbitrator, shall apply in like manner as if every such borough were a quarter sessions borough situate in the county.

(9) Expressions in this section relating to contributions by a borough to a county shall be construed to include any sum raised by the assessment of the parishes or hereditaments in the borough to the county rate.

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Sect. 32.

See sect. 62, *infra*, as to arbitrator.

Note.
Sub-s. (5).

Sect. 33.

Provisions as to police and rateable value in county boroughs.

XXXIII.—(1) Nothing in this Act with respect to county boroughs shall prevent the continuance of one police force for any county borough and any county, or the consolidation of the police forces of any county borough and any county in like manner as heretofore, but where the provisions of this Act affect the arrangement with respect to the consolidated police for a county and borough, an adjustment shall be made between the council of the borough and county in accordance with the provisions of this Act. The foregoing provisions of this section shall apply to boroughs which are not county boroughs in like manner as if they were re-enacted and in terms made applicable to those boroughs.

(2) Where, for the purpose of calculating any contribution or payment to be made under this Act, it is necessary to ascertain the rateable value of both a county and a county borough, such rateable value shall be ascertained and fixed by a joint committee composed of representatives of all the councils concerned, and such committee shall for that purpose have all the powers and jurisdiction of quarter sessions and of a committee of justices appointed under the County Rate Act, 1852, and the Acts amending the same, and the number of representatives for the county and each county borough respectively shall be settled by agreement, or in default of agreement by the Local Government Board.

15 & 16 Vict. c. 81.

Application of Act with modifications to county boroughs.

XXXIV.—(1) The mayor, aldermen, and burgesses of each county borough acting by the council shall, subject as in this Act mentioned, have and be subject to all the powers, duties, and liabilities of a county council under this Act (in so far as they are not already in possession of or subject to the same), and in particular shall, subject to the provisions of this Act as to adjustment between counties and county boroughs, be entitled to receive the like sums out of the local taxation account, and be bound to make the like payments in substitution for local grants and the like grants in respect of the costs of the officers of unions and of district schools as in the case of a county council, so far as the circumstances make such payments applicable, and all the provisions of this Act (including those with respect to the forfeiture on the withholding by a Secretary of State of his certificate as respects the police of the county) shall accordingly, so far as circumstances admit, apply in the case of every such borough, with the necessary modifications, and in particular with the following modifications—

(*a.*) The county borough shall be substituted for the county, and borough fund shall be substituted for county fund,

Sect. 33. Note.

It should be noted that the powers of the committee of justices appointed under the County Rate Act, 1852 (15 & 16 Vict. c. 81), are transferred to the county council by sect. 3 (i.), *supra*.

Sect. 34. Note.

With regard to the payment of the grant required to be made in respect of the costs of union officers, see sect. 26, *supra*.

Sub-s. (1).

and town clerk shall be substituted for clerk of the peace and clerk of the council;

(*b.*) A reference to two or more counties shall include a reference to county boroughs as well as counties;

(*c.*) Such powers, duties, and liabilities of the court of quarter sessions or justices as in the case of a county are transferred to the county council shall be transferred to the council of the county borough, whether the same are vested in or attached to the court of quarter sessions or justices of the borough or of the county in which the borough is situate;

(*d.*) In the case of the duties collected by the Commissioners of Inland Revenue in respect of the licences for trade carts, locomotives, horses, mules, and horse dealers under any Act of the present session, those commissioners shall certify the amount collected in each county in like manner as if the county included each county borough specified in the third schedule to this Act as deemed to be situate in that county, and the amount as so ascertained shall be divided between the said boroughs, and the residue of the said county in proportion to rateable value as fixed by the joint committee in pursuance of this Act, and until such value is fixed in proportion to rateable value according to the standard or basis for county contributions for the time being, and the share so ascertained shall be paid in like manner as if it had been collected in the county borough or in the residue of the county, as the case may be;

(*e.*) Any sum standing to the Exchequer contribution account of a county borough which remains after payment of the grant required to be made in respect of the costs of union officers shall be carried to the borough fund, or be applied in aid of such rate leviable over the whole of the borough as the council may determine, and the provisions respecting the payment of the same to the general county account of the county fund, and the subsequent application and division thereof, shall not apply.

(2) On the appointed day there shall be transferred to the mayor, aldermen, and burgesses of each county borough all such bridges and approaches thereto, or parts thereof, situate within the borough as were previously repairable by the county or any hundred therein, and the costs of the council in repairing such bridges and approaches, or parts thereof, and in repairing any roads in the borough which by virtue of this Act or any Act applied by this Act are main roads, shall be payable out of the borough fund.

(3) The provisions of this Act with respect to—

(*a.*) The constitution, election, proceedings, or position of the county council or the chairman thereof;

(*b.*) The county treasurer, county surveyor, and other county officers;

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(*c.*) The standing joint committee of the justices and the council, or

(*d.*) Coroners, or

(*e.*) Gas meters, or

(*f.*) The transfer to the council of powers relating to county and other rates, and the preparation or revision of the basis or standard for the county rate ;

shall not apply to county boroughs, nor shall Part IV. of this Act relating to finance apply, save so far as is expressly provided in that part.

(4) Provided that where the district of any county coroner is wholly situate within a county borough, the coroner for that district shall be appointed by the council of that borough, and the writ for his election may be issued to that council instead of to the county council, and where the district of any county coroner is situate partly within and partly without a county borough, the writ for the election of such coroner shall be issued to the county council, but if there is a joint committee of the county and borough councils for the purpose, the question of the person to be elected shall be referred to that joint committee, and the county council shall appoint the person recommended by the majority of such committee.

(5) If the council of a county borough so require, a joint committee shall from time to time be appointed for the purposes of coroners, consisting of such number of members of the county and borough councils as may be agreed upon, or in default of agreement may be determined by a Secretary of State.

(6) Nothing in this Act shall transfer to the council of any borough any power in relation to the division of the county into polling districts for the purpose of a Parliamentary election for the county, the appointment of places of election for the county, the places of holding courts for the revision of the lists of voters, and the costs of, and other matters to be done for, the registration of Parliamentary voters for the county.

(7) The powers and duties of the county authority under the Allotments Act, 1887, shall, as respects the borough, continue to be exercised and performed by the Local Government Board.

50 & 51 Vict. c. 48.

45 & 46 Vict. c. 50.

(8) This Act and the Municipal Corporations Act, 1882, shall be construed so as to give effect to the provisions of this section.

Application of Act to larger quarter sessions boroughs not county boroughs.

XXXV. In the case of a quarter sessions borough, not being one of the boroughs named in the third schedule to this Act, but containing, according to the census of one thousand eight hundred and eighty-one, a population of ten thousand or upwards, the following provisions shall, on and after the appointed day, apply :

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Note.

Sub-s. (7).

See sect. 16 of the Allotments Act, 1887 (50 & 51 Vict. c. 48), for the provision which, in anticipation, made the county council the county authority under that Act.

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(1) Nothing in this Act shall transfer to the county council any power of the council of the borough as local authority under any Act, or (save as in this Act expressly mentioned) alter the powers, duties, and liabilities of the council of the borough under the Municipal Corporations Act, 1882, but subject to the above provisions and to the savings herein-after contained, the borough shall form part of the county for the purposes of this Act, and the parishes in the borough shall, subject to the exemptions herein-after mentioned, be liable to be assessed to county contributions in like manner as the rest of the county.

(2) Where such borough is at the passing of this Act exempt, in whole or in part, from contributing towards costs incurred for any purpose for which the quarter sessions of the county in which the borough is situate are authorized to incur costs the parishes in the borough shall not, save as in this Act expressly mentioned, be assessed by the county council to county contributions in respect of costs incurred for any such purpose, nor in the case of a partial exemption, be so assessed for any larger sum than such as will give effect to that exemption, but this exemption shall not extend to any costs incurred for the purpose of any powers, duties, or liabilities of the justices of the borough, which will by virtue of this Act be exercised or discharged by the county council nor to any costs of or incidental to the assizes of the county.

(3) Notwithstanding the last enactment the borough shall, for the purposes of the provisions of the Highways and Locomotives (Amendment) Act, 1878, respecting main roads, form part of the county, and the costs of maintaining, repairing, improving, enlarging, or otherwise dealing with any main road in the borough shall be paid out of the county fund, and the payment of the costs incurred in the execution of the provisions of this Act with respect to main roads shall be a general county purpose for which the parishes of the borough may be assessed to county contributions: 41 & 42 Vict. c. 77.

(4) Provided that—

(*a.*) The borough shall be deemed to be an urban sanitary district within the meaning of the Highways and Locomotives (Amendment) Act, 1878; and the 41 & 42 Vict. c. 77.

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Sect. 35. Note. Sub-s. (2).

The provisions of this sub-section apply only to the larger quarter session boroughs, and none of them apply to the smaller boroughs mentioned in sect. 38, *infra*; see *Thetford* v. *Norfolk County Council*, [1898] 2 Q. B. 468, overruling *Ex parte Kent County Council and Councils of Sandwich and Dover*, [1891] 1 Q. B. 389; 60 L. J. Q. B. 314; 60 L. T. 421; 55 J. P. 248; and *In re Herefordshire County Council*, [1895] 1 Q. B. 43.

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council of the borough shall have the power under the Highways and Locomotives (Amendment) Act, 1878, of making byelaws respecting locomotives, and authorizing locomotives to be used on any road within the borough, save that if any difference is made by such byelaws or authority between any main road maintained by the county council and the other roads in the borough, such authority and byelaws shall require the approval of the county council; and

(*b.*) The council of the borough shall have power as an urban authority to claim, in accordance with this Act, to retain the powers and duties of maintaining and repairing any main road in the borough; and

(*c.*) The council of the borough may within two years after the passing of this Act apply to the county council to declare such roads in the borough as are mentioned in the application to be main roads within the meaning of the Highways and Locomotives (Amendment) Act, 1878, and the county council shall consider such application and inquire whether such roads are or ought to be main roads within the meaning of the said Act, and shall make or refuse the declaration accordingly, and if the county council refuse to make the declaration, the council of the borough may within a reasonable time after such refusal apply to the Local Government Board, and that board shall have power, if after a local inquiry they think it just so to do, to make the said declaration, which shall have the same effect as if made by the county council.

(5) The payment of the costs of assizes and sessions shall be a general county purpose for which the parishes in the borough may be assessed to county contributions, and all costs of prosecutions mentioned in section one hundred and sixty-nine of the Municipal Corporations Act, 1882, shall be paid out of the county fund.

45 & 46 Vict. c. 50.

(6) The county councillors elected for an electoral division consisting wholly of such borough, or of some part of such borough, shall not act or vote in respect of any question arising before the county council as regards matters involving expenditure on account of which the parishes in the borough are not, for the time being, liable to be assessed equally with the rest of the county to county contributions.

(7) The county council and the council of any such borough may agree for the cessation in whole or in part of any exemption under this section of the parishes in the borough from assessment to county contributions, in consideration either of payment by the county council

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of a capital sum, or of an annual payment, or of a transfer of property or liabilities, or of the county council undertaking in substitution for the council of the borough any powers or duties, or partly for one consideration and partly for another, or in any other manner, according as may be determined.

(8) A borough which is a county of a city or a county of a town shall, for the purposes of this section, be deemed to be situate in and form part of the county which it adjoins, or if it adjoins more than one county, then in and of the county of which it forms part for the purposes of Parliamentary elections.

General application of Act to boroughs with separate commission of the peace.

XXXVI.—(1) Where a borough has a separate commission of the peace, whether a quarter sessions borough or not (and is not a borough named in the third schedule to this Act), then, subject to the provisions of this Act, all such powers, duties, and liabilities of the court of quarter sessions or justices of the borough, as in the case of the county are by this Act transferred to the county council, shall cease, and the county council shall have those powers, duties, and liabilities within the area of the borough in like manner as in the rest of the county;

(2) Provided that such powers, duties, or liabilities, so far as they are under the Acts relating to pauper lunatics, shall, save as otherwise provided by this Act, be transferred to the council of the borough and not to the county council, and the provisions of this Act with respect to the transfer to a county council shall apply with the necessary modifications to such transfer to the council of the borough.

Application of Act to quarter sessions boroughs hereafter created.

XXXVII. The grant after the passing of this Act of a court of quarter sessions to any borough, not being a county borough, shall not affect the powers, duties, or liabilities of the county council as respects the area of that borough, nor exempt the parishes in the borough from being assessed to county contributions for any purpose to which such parishes were previously liable to be assessed, and shall not confer or impose on the mayor, aldermen, and burgesses, or the council of such borough, any powers, duties, or liabilities further than such as are necessary for establishing and maintaining the court of quarter sessions in the borough.

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Note.

Originally sect. 86 of this Act adapted the Acts relating to lunatic asylums to this Act; but that section has been (with the exception of sub-sect. (5) thereof) repealed by the Lunacy Act, 1890 (53 & 54 Vict. c. 5), and substantially re-enacted piecemeal in that Act.

The expression "save as otherwise provided by this Act" refers to the enactment in sect. 38 (1), *infra*.

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Application of Act to smaller quarter sessions boroughs with population under 10,000.

XXXVIII. Where a borough having a separate court of quarter sessions contained according to the census of one thousand eight hundred and eighty-one a population of less than ten thousand, the following provisions shall after the appointed day apply:—

(1) There shall be transferred to the county council the powers, duties and liabilities of the council and justices of the borough as regards the provision, enlargement, maintenance, management, and visitation of and other dealing with asylums for pauper lunatics:

(2) There shall be transferred to the county council the powers, duties, and liabilities of the council of the borough—

(*a.*) As regards coroners; and

(*b.*) As regards the appointment of analysts under the Acts relating to the sale of food and drugs; and

(*c.*) Under the acts relating to—

(i.) Reformatory and industrial schools; and

(ii.) Fish conservancy; and

(iii.) Explosives; and

(*d.*) Under the Highways and Locomotives (Amendment) Act, 1878;

Provided that the transfer by this section—

(*a.*) Shall be subject to the provisions in this Act for the protection of existing officers and the continuance of existing contracts; and

(*b.*) Shall not, save as respects the coroners, affect the powers, duties, and liabilities of the council of the borough under the Municipal Corporations Act, 1882:

(3) The borough shall be an urban sanitary district within the meaning of the Highways and Locomotives (Amendment) Act, 1878:

41 & 42 Vict. c. 77.

(4) The council of the borough may within two years after the passing of this Act, apply to the county council to declare such roads in the borough as are mentioned in the application to be main roads within the meaning of the Highways and Locomotives (Amendment) Act, 1878, and the county council shall consider such application, and inquire whether such roads are, or

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Note.

In the case of boroughs coming within this section, the obligation to pay the salary of the recorder, the fees of the clerk of the peace, and the salary of the clerk of the borough justices, is not transferred from the borough to the county council. *Thetford* v. *Norfolk County Council* [1898] 2 Q. B. 468; see note to sect. 35, *supra*, p. 1799.

Sub-s. (1).

For the powers, &c., mentioned in this sub-section, see Part IX. of the Lunacy Act, 1890 (53 & 54 Vict. c. 5). They are the same powers as are transferred from quarter sessions in counties under sect. 3 (vi.), *supra*.

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ought to be, main roads within the meaning of the said Act, and shall make or refuse the declaration accordingly, and if the county council refuse the declaration, the council of the borough may, within a reasonable time after such refusal, apply to the Local Government Board, and that Board, after a local inquiry, shall have power, if they think it just so to do, to make the said declaration, which shall have the same effect as if it had been made by the county council:

(5) The area of the borough shall for the purposes of the above-mentioned Acts and all other administrative purposes of the county council be included in the county, as if the borough had not a separate court of quarter sessions, and accordingly shall be subject to the authority of the county council and the county coroners, and may be annexed by the county council to a coroner's district of the county, and the parishes in the borough shall be liable to be assessed to all county contributions:

(6) Any property, debts, or liabilities of the county or of any borough affected by this or the next succeeding section (including the charge to be made for lunatics which but for this Act would have been maintainable by the borough) may be adjusted in manner provided by Part Three of this Act:

(7) It shall be lawful for Her Majesty the Queen, on petition from the council of any borough to which this or the next succeeding section applies, by Order in Council, to revoke the grant of a court of quarter sessions to the borough, and by letters patent to revoke the grant of a commission of the peace for the borough, and to make such provision as to Her Majesty seems proper for the protection of interests existing at the date of the revocation, and after the date of the revocation all enactments and laws relating to courts of quarter sessions and justices and their jurisdiction shall apply, as if such court of quarter sessions or commission of the peace, as the case may be, did not exist:

(8) A borough which is a county of a city or a county of a town shall, for the purposes of this and the next succeeding section, and if Her Majesty revokes the grant of a court of quarter sessions or a commission of the peace to such borough, then also for all purposes of quarter sessions and justices, be deemed to be situate in and form part of the county of which it forms part for the purpose of Parliamentary elections:

(9) Where this section applies to a Cinque Port it shall apply

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As to the chargeability of boroughs with the maintenance of lunatics, see Lunacy Act, 1890 (53 & 54 Vict. c. 5), s. 290.

Note.

Sub-s. (6).

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also to all the members thereof, and those members when not situate in a quarter sessions borough shall form part of the county for all purposes.

Application of Act to all boroughs with population under 10,000.

XXXIX.—(1) Where a borough, whether with or without a separate court of quarter sessions, contained according to the census of one thousand eight hundred and eighty-one a population of less than ten thousand, then after the appointed day all powers, duties, and liabilities of the mayor, aldermen, and burgesses, or council of the borough, or the watch committee of the borough in relation—

(*a.*) To the police force of the borough, or

(*b.*) To the appointment of analysts under the Acts relating to the sale of foods and drugs, or

41 & 42 Vict. c. 74.

(*c.*) To the execution of the Contagious Diseases (Animals) Acts, 1878 to 1886, or the Destructive Insects Act, 1877, or

47 & 48 Vict. cc. 13, 47.

49 & 50 Vict. c. 32.

(*d.*) To gas meters, or

40 & 41 Vict. c. 68.

(*e.*) To weights and measures, if the council exercise any jurisdiction in relation thereto,

shall cease, and, subject to the provisions of this Act as to the members of the police force holding office on the said day, the area of the borough shall for all purposes of the Acts relating to the county police force, or other matters above in this section mentioned, form part of the county in like manner as if it were not a borough;

(2) Provided that nothing in this section shall transfer to the county council any powers, duties, or liabilities under section thirty-four of the Contagious Diseases (Animals) Act, 1878, as amended by section nine of the Contagious Diseases (Animals) Act, 1886.

41 & 42 Vict. c. 74.

49 & 50 Vict. c. 32.

(3) The urban authority for any borough or town with such population as above in this section mentioned shall cease to be the local authority under the Acts relating to explosives, and the county council shall have the like authority under the said Acts in the said borough or town as they have in the rest of their county.

*Application of Act to Metropolis.*

Application of Act to metropolis as county of London.

XL. In the application of this Act to the metropolis the following provisions shall have effect:—

(1) The metropolis shall, on and after the appointed day, be an administrative county for the purposes of this Act by the name of the administrative county of London.

(2) Such portion of the administrative county of London as forms part of the counties of Middlesex, Surrey, and

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Note.

Sub-s. (1).

For definition of "metropolis," see sect. 100, *infra*.

Kent, shall on and after the appointed day be severed from those counties, and form a separate county for all non-administrative purposes by the name of the county of London; and it shall be lawful for Her Majesty the Queen to appoint a sheriff of that county, and to grant a commission of the peace and court of quarter sessions to that county; and, subject to the provisions of this Act, all enactments, laws, and usages with respect to counties in England and Wales, and to sheriffs, justices, and quarter sessions shall, so far as circumstances admit, apply to the county of London:

(3) Provided that, for the purpose of the jurisdiction of the justices under such commission, and of such court, as well as other non-administrative purposes, the county of the city of London shall continue a separate county, but if and when the mayor, commonalty, and citizens of the city assent to jurisdiction being conferred therein on such justices and court may by commission under the Great Seal be made subject to the jurisdiction thereof.

(4) The number of the county councillors for the administrative county of London, shall be double the number of members which at the passing of this Act, the Parliamentary boroughs in the metropolis are authorized by law to return to serve in Parliament; and each such borough, or if it is divided into divisions, each division thereof, shall be an electoral division for the purposes of this Act, and the number of county councillors elected for each such electoral division, shall be double the number of members of Parliament which such borough or division is at the passing of this Act entitled to return to serve in Parliament:

(5) Provided that the number of county aldermen in the administrative county of London, shall not exceed one-sixth of the whole number of county councillors.

(6) The provisions of this Act with respect to the powers, duties, and liabilities of county councils, and the transfer of property, debts, and liabilities of counties to county councils, shall apply to the administrative county of London in like manner, so nearly as circumstances admit, as if the quarter sessions, justices, and clerks of the peace of the counties of Middlesex, Surrey, and Kent had been, so far as regards the metropolis, the quarter sessions, justices, and clerk of the peace for the administrative county of London:

(7) Provided that any property, debts, or liabilities of the county of Kent shall not, by reason only of this enactment, be vested in the county council of London, but such property, debts, and liabilities, and also the

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property, debts, and liabilities of the counties of Middlesex and Surrey, shall be apportioned between the portions of those counties situate within the metropolis and the portions situate outside the metropolis in such manner as may be determined by agreement between the respective county councils, or in default of agreement by the commissioners under this Act, and the property, debts, and liabilities apportioned to the portions within the metropolis shall be the property, debts, and liabilities of the whole of the administrative county of London.

(8) There shall also be transferred to the London County Council the powers, duties, and liabilities of the Metropolitan Board of Works, and after the appointed day that board shall cease to exist, and the property, debts, and liabilities thereof shall be transferred to the London County Council, and that Council shall be in law the successors of the Metropolitan Board of Works.

(9) If the London County Council borrow for the purposes of this Act they shall borrow in accordance with the provisions of the Acts relating to the Metropolitan Board of Works, but save as aforesaid Part Four of this Act shall apply to the London County Council when acting as successors of the Metropolitan Board of Works, and the costs incurred when so acting shall be paid out of the county fund, and the payment thereof shall be a general county purpose.

Position of city of London, and application of Highway Acts.

XLI.—(1) Of the powers, duties, and liabilities of the court of quarter sessions and justices of the city of London—

(*a.*) Such of them as would, if the city were a quarter sessions borough, with a population exceeding ten thousand, be exercised by virtue of this or any other Act by the council of the borough, shall be transferred to the mayor, commonalty, and citizens of the city acting by the council (in this Act referred to as the common council); and

(*b.*) Such of them as would, in the said case, be by virtue of this Act exercised and discharged by the county council shall cease, and the county council shall, subject to the provisions of this Act, have those powers, duties, and liabilities within the city of London in like manner as within the rest of the administrative county of London.

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Note. Sub-s. (1).

The common council will exercise such powers as would be exercised by the council of a quarter sessions borough under sects. 35, 36, *supra*. By the Lunacy Act, 1890 (53 & 54 Vict. c. 5), s. 240, the common council is created a "local authority" under that Act.

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(2) The provisions of this Act with respect to the transfer to a county council shall apply with the necessary modifications to such transfer to the common council, and the common council shall be entitled to receive from the London County Council in respect of each pauper lunatic, the same amount as is required by this Act to be paid by any other county council to the council of a borough.

(3) Where at the passing of this Act the Metropolitan Board of Works or the quarter sessions of Middlesex are authorized to incur costs for any purpose, and the common council of the city are not liable to contribute to such costs, the parishes in the city of London shall not, save as in this Act expressly mentioned, be liable to be assessed to county contributions in respect of costs incurred by the county council for such purpose, but this exemption shall not extend to any costs incurred for the purpose of any powers, duties, or liabilities of the quarter sessions or justices of the city of London, which will be exercised and discharged by the London County Council.

(4) The provisions of the Highways and Locomotives (Amendment) Act, 1878, with respect to main roads, as amended by this Act, shall extend to the metropolis in like manner as if the expression "urban sanitary district" in that Act included, as respects the metropolis, the city of London, and a parish in schedule (A.), and a district in schedule (B.) of the Metropolis Management Act, 1855, as amended by subsequent Acts, and as if the Commissioners of Sewers, or vestry, or district board (as the case may be) were the urban sanitary authority: Provided that— 41 & 42 Vict. c. 77. 18 & 19 Vict. c. 120.

(*a.*) In the city of London the common council shall have the power under the Highways and Locomotives (Amendment) Act, 1878, of making byelaws respecting locomotives, and authorizing locomotives to be used on any road within the city, save that if any difference is made by such byelaws or authority between any main road maintained by the county council and the other roads in the city, such authority and byelaws shall require the approval of the county council; and

(*b.*) The common council in the city of London, and in any other part of the metropolis, the vestry, or district board, shall be deemed to be a district council and an urban authority within the meaning of the provisions of this Act with respect to main roads, and may accordingly claim to retain the power of maintaining and repairing a main road, and in such case shall have all such powers and duties of maintaining, repairing,

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Sect. 41. Note. Sub-s. (2).

The amount required to be paid by a county council to a council of a borough for each pauper lunatic is that provided by sect. 24 (2) (*g*), *supra*.

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improving and enlarging, and otherwise dealing with the main road as they would have if it were an ordinary highway repairable by them, and such powers and duties shall in the city of London be discharged by the Commissioners of Sewers.

(5) The payment of the costs of assizes and sessions shall be a general county purpose for which the parishes in the city may be assessed to county contributions, and all such costs of prosecutions in the city as are by law payable out of the county rate shall be paid out of the county fund.

(6) The county councillors elected for the city, shall not act or vote in respect of any question arising before the county council as regards matters involving expenditure on account of which the parishes in the city are not for the time being liable to be assessed equally with the rest of the administrative county to county contributions.

(7) The London County Council, and the common council of the city of London may agree for the cessation in whole or in part of any exemption under this section from assessment, in consideration either of payment by the county council of a capital sum, or of an annual payment, or of a transfer of property or liabilities, or of the county council undertaking, in substitution for the common council, any powers or duties, or partly for one consideration and partly for another, or in any other manner, according as may be determined.

(8) The sheriffs of the city of London shall not have any authority except in the city.

Arrangements for paid chairman and sitting of quarter sessions for London.

XLII.—(1) If the London County Council petitions Her Majesty the Queen in that behalf, it shall be lawful for Her Majesty from time to time to appoint a barrister of not less than ten years' standing to be paid chairman or deputy chairman, or one of the paid deputy chairmen, as the case may be, of the quarter sessions for the county of London.

(2) Any person so appointed shall hold office during good behaviour, and shall by virtue of his office be a justice of the peace for the county of London.

(3) There shall be paid to him out of the county fund as a general county purpose such yearly salary, not exceeding that stated in the petition in consequence of which the appointment was made, as Her Majesty directs.

(4) Such chairman or deputy chairman shall not, during his office, be eligible to serve in Parliament, and shall not during his continuance in office practise as a barrister.

(5) Where there is any such paid chairman or deputy chairman of the quarter sessions, the court may be held before such chairman or deputy chairman alone.

(6) Separate courts of quarter sessions may be held at

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different parts of the county of London at the same time if so directed by the county council with the approval of a Secretary of State, and every court of general sessions of the peace for the county of London and every adjournment thereof shall have the same jurisdiction in all respects, including the power of hearing and determining appeals, as if such court were quarter sessions.

(7) The London County Council may from time to time submit to a Secretary of State a scheme for regulating the holding of courts of quarter sessions in London either at any one place or at different places, and in the latter case either at the same time or at different times, and for determining the legal character of each sessions so held, that is to say, whether quarter, general, original, or adjourned sessions, or otherwise, and for making such regulations respecting committals for trial, recognizances, depositions, and other matters as are necessary or proper for giving effect to the scheme, and such scheme, when approved by a Secretary of State, shall be published in the London Gazette, and thereupon shall have effect as if it were enacted in this Act.

(8) Until the quarter sessions for the county of London constitute special sessional divisions, every petty sessional division of the counties of Middlesex, Surrey, and Kent existing at the appointed day, or so much of such division as is situate in the county of London, shall form a special or petty sessional division of the county of London.

(9) Where any special or petty sessional division of the counties of Middlesex, Surrey, and Kent, existing at the appointed day, is situate partly within and partly without the county of London, so much thereof as is situate without the said county shall, until any alteration is made by the quarter sessions for the county of Middlesex, Surrey, or Kent, as the case may be, be a special or petty sessional division of that county.

(10) The quarter sessions for the county of London shall be substituted for the general assessment sessions under the Valuation (Metropolis) Act, 1869, and have all the jurisdiction vested in those sessions, and shall exercise the same within the same area. Upon the hearing of any appeals in relation to property in the city of London, such two members of the court

32 & 33 Vict. c. 67.

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Note. Sub-s. (10).

The area of jurisdiction of general assessment sessions under the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), s. 3, was all unions or parishes not in union, which were for the time being wholly, or for the greater part in value thereof, respectively situate within the jurisdiction of the Metropolitan Board of Works under the Metropolis Management Act, 1855 (18 & 19 Vict. c. 120). The London Quarter Sessions now have the same jurisdiction with regard to rating appeals as the general assessment sessions had under sects. 23—42 of the Valuation (Metropolis) Act, 1869.

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of quarter sessions of the city of London as may be appointed by that court for the purpose, shall be entitled to attend and sit as members of the quarter sessions for the county of London.

7 & 8 Vict. c. 71. 22 & 23 Vict. c. 4. 37 & 38 Vict. c. 7.

(11) The enactments respecting the times for holding sessions of the peace for the county of Middlesex, and the appointment and payment of any assistant judge or deputy assistant judge, or of a person to preside in a second court at any sessions in the county of Middlesex, shall cease to apply to the county of Middlesex.

(12) Quarter sessions for the counties of Middlesex, Surrey, and Kent respectively may be held, and the justices of each of those counties may hold special and petty sessions for any division of such county, and appoint a petty sessional or occasional court house, at any place in the county of London, and for all purposes relating to such sessions or any business transacted at such court house, such place shall be deemed to be within the county and division for which the justices holding the same are justices, but no jurors shall be summoned for such sessions from within the county of London.

(13) Nothing in this Act shall alter the powers or duties of the justices, quarter sessions, recorder, or common serjeant of the city of London, further or otherwise than is expressly provided or than the powers and duties of the justices or quarter sessions of any county are altered.

(14) Provided that from and after the appointed day the rights claimed by the court of common council to appoint to the offices of common serjeant, and judge of the City of London Court shall cease, and in any future vacancy in each of the said offices, it shall be lawful for Her Majesty the Queen to appoint a duly qualified barrister to be such common serjeant, or judge; and from and after the next vacancy no recorder shall exercise any judicial functions unless he is appointed by Her Majesty to exercise such functions.

Grant by London County Council to poor law unions.

XLIII.—(1) In the administrative county of London the county council :—

(*a*) Shall pay to the guardians for every poor law union wholly in the county such sums as the Local Government Board from time to time certify to be due from the said council in substitution for the local grants towards the remuneration of poor law medical officers, and towards the cost of drugs and medical appliances; and

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(*b*.) Shall grant to the guardians of every poor law union

Note. See, as to these payments, sects. 24, 26, *supra*.

Sub-s. (1) (*a*). The grant under this sub-section is in addition to any payments out of the metropolitan common poor fund. (See sect. 94, *infra*.)

Sub-s. (1) (*b*).

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wholly in their county an amount equal to fourpence a day per head for every indoor pauper maintained in that union, and such grant, during the five local financial years beginning on the appointed day, shall be reckoned according to the average number of indoor paupers so maintained during the five financial years ending on the twenty-fifth day of March next before the passing of this Act, and shall, after the end of the said five local financial years, unless Parliament otherwise determine, continue to be reckoned in accordance with the same average number; and

(*c.*) Shall pay to the guardians of every poor law union, a portion of which only is situate in their county, such proportion of the annual sum which is, under the other provisions of this Act, payable by the county council of a county to the guardians of that union, as the rateable value of the portion within the administrative county of London bears to the rest of the union.

(2) For the purposes of this section the expression "indoor pauper" includes all paupers maintained in a workhouse, and all paupers maintained in any district school, separate school, separate infirmary, sick asylum, hospital for infectious diseases, or institution for the deaf, dumb, blind, or idiots, or in any certified school under the Act of the session of the twenty-fifth and twenty-sixth years of the reign of Her Majesty, chapter forty-three, and includes any children boarded out, whether within or without the limits of the union, and in the metropolitan asylums district includes all inmates of any asylum for imbeciles provided by the managers of that district, but excludes paupers relieved in casual wards, and such number of indoor paupers in a workhouse or in a district or separate school or in a separate infirmary or asylum, as exceeded the number prescribed by the Local Government Board for that workhouse, school, infirmary or asylum, and also excludes paupers maintained for part only of a day: Provided always, that any paupers maintained under any contract or agreement in a workhouse other than that of the union to which they are chargeable, shall be included only in the number of indoor paupers of the union to which they are so chargeable.

(3) The average number of paupers shall be estimated in such manner as the Local Government Board direct, and shall be certified by the board. The board may, if they think proper, vary their certificate, but unless it is so varied, their certificate shall be conclusive.

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Note.

Sub-s. (1) (*c*).

The "other provisions of this Act" here mentioned are those contained in sects. 24, 26, *ante*.

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Transfer of duties under 32 & 33 Vict. c. 67, of clerk of metropolitan asylum managers.

XLIV. On and after the appointed day all powers and duties of the clerk to the managers of the metropolitan asylums district under the Valuation (Metropolis) Act, 1869, shall be transferred to the clerk of the county council of London, and the said Act shall be construed as if the county council were substituted therein for the managers of the metropolitan asylums district.

[Sect. 45. *Adjustment of law as to slaughter-houses in the metropolis:* Repealed by the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), and substantially re-enacted by sect. 20 of that Act.]

*Application of Act to Special Counties and to Liberties.*

Application of Act to certain special counties.

XLVI. For the purposes of this Act there shall be enacted the provisions following; that is to say,

(1)—(*a.*) The ridings of Yorkshire and the divisions of Lincolnshire shall respectively be separate administrative counties.

28 & 29 Vict. c. 37.

(*b.*) The eastern and western divisions of Sussex, under the County of Sussex Act, 1865, and the eastern and western divisions of Suffolk, shall respectively be separate administrative counties for the purposes of this Act.

(*c.*) The Isle of Ely, and the residue of the county of Cambridge, shall be respectively separate administrative counties for the purposes of this Act, and are in this Act referred to as divisions of the county of Cambridge.

(*d.*) The soke of Peterborough and the residue of the county of Northampton shall be respectively separate administrative counties for the purposes of this Act, and are in this Act referred to as divisions of the county of Northampton.

(2)—(*a.*) In the case of the county of York and the county of Lincoln respectively, the administrative business which would, if this Act had not passed, have been transacted by the justices of all the ridings and divisions at their gaol sessions, or by any joint committee of the justices of such ridings or divisions, or by any commissioners appointed by the justices, or otherwise jointly by such justices, shall be transacted by a joint committee of the county councils of the three ridings or three divisions, as the case may be, appointed in manner provided by this Act with respect to joint committees of county councils.

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Note.

The powers and duties of the clerk to the managers of the metropolitan asylums district under the Valuation (Metropolis) Act, 1869, will be found in sects. 14, 16, 17, 41, and 42 (8) of that Act.

(*b.*) The administrative business which would, if this Act had not passed, have been transacted by any general sessions of the peace for the county of Sussex or Suffolk, or by any joint action of the quarter sessions of the divisions of the county of Cambridge or the county of Northampton, and all matters under this Act which concerns the two divisions of Sussex, Suffolk, Cambridge, or Northampton jointly, shall be transacted by a joint committee of the respective county councils concerned, appointed in manner provided by this Act with respect to joint committees of county councils.

(*c.*) A joint committee formed in pursuance of this section shall, if the business transacted by them so require, comprise a joint committee of the quarter sessions of the several ridings and divisions.

(*d.*) If any difference arises as to the number of members, or the mode or time of appointing a joint committee under this section, the difference shall be determined by a Secretary of State.

(3) A joint committee formed in pursuance of this section shall, in respect of the business to be transacted by them, stand in the same position as if the entire county were not divided for the purposes of county councils, and as if the committee were the county council of the entire county, and the provisions of this Act shall, so nearly as circumstances admit, apply accordingly, and all costs or sums payable by the joint committee shall be apportioned by the joint committee between the several administrative counties in such manner as is provided by law, or by the practice heretofore adopted, or in such other manner as may be from time to time agreed upon by the councils of the several administrative counties, or in default of agreement may, upon the application of any of such councils, be determined by arbitration in manner provided by this Act; and each county council shall pay the sum so apportioned to the treasurer of the joint committee, and the sum so paid shall be deemed to be paid for general county purposes.

(4) The powers, duties, and liabilities of the county authority, under the Yorkshire Registries Act, 1884, and the Acts amending the same, shall, after the appointed day, be transferred to the county council, and the expression "county authority," in those Acts shall mean, as respects each riding, the county council of that riding.

(5) In the application of this Act to Lancashire, the provisions of this Act with respect to county rates shall

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apply to the special rates levied in Lancashire for the purposes of the salary or pension of any chairman of quarter sessions or stipendiary justice, or for any assize courts, and such rates shall continue to be levied within the respective areas within which they would have been levied if this Act had not passed, and, subject as aforesaid, the position and salary of any such chairman or justice shall not be affected by any provision of this Act.

(6) From and after the appointed day the right of the mayor, commonalty, and citizens of the city of London to elect the sheriff of Middlesex shall cease, and it shall be lawful for Her Majesty the Queen to appoint a sheriff of the county of Middlesex, and the law relating to sheriffs shall apply in the case of the county of Middlesex in like manner as in the case of any other county.

(7) In this section "administrative business" means such business as is by this Act transferred from quarter sessions or justices, or any committee thereof, to county councils.

Saving for Manchester Assize Courts Act, 1858, 21 & 22 Vict. c. xxiv.

XLVII.—(1) Notwithstanding anything in this Act, the courts of assize at Manchester, with the lodgings for Her Majesty's judges, offices, lockups, and all other property vested in the justices of the peace of the county palatine of Lancaster by the Manchester Assize Courts Act, 1858, shall be vested in the county council of the said county palatine, and shall be under the control and management of a joint committee of members of the said county council, and of the council of every county borough locally situate in the hundred of Salford; and that joint committee shall have and exercise all such powers and rights (except the power of levying, imposing, or assessing a rate or of borrowing money) as are conferred on the said justices by the said Act; and the hundred of Salford (including every borough locally situate therein) shall continue liable to contribute towards expenses incurred under the authority of the said Act.

(2) The number of members of a joint committee appointed for the purposes of this section shall not exceed twelve, and the quorum requisite for the transaction of business shall be three.

(3) Any disagreement as to the number of members of the committee or as to the proportions in which the several councils are to be represented thereon, shall be settled by a Secretary of State.

Merger of liberties in council.

XLVIII.—(1) For all purposes of this Act, every liberty and franchise of a county, wholly or partly exempt from

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contribution to the county rate, shall, save as may be otherwise provided by or in pursuance of this Act, form part of the county of which it forms part for the purposes of Parliamentary elections.

(2) The provisions of this Act with respect to the transfer to the county council of the powers, duties, and liabilities of the quarter sessions and justices of a county, and of their property, debts, and liabilities, whether vested in or attaching to the clerk of the peace or any justice or justices or otherwise on behalf of the county, shall apply to every such liberty and franchise as above mentioned in like manner in all respects as if they were herein re-enacted and in terms made applicable to such liberty and franchise; and the county council shall have and exercise in every such liberty and franchise the powers and duties transferred to them by this Act from the quarter sessions and justices of the county;

(3) Provided that where at the passing of this Act the police force in such liberty or franchise is under the control of the quarter sessions for such liberty or franchise, there shall be one police force for the whole administrative county under the county council, and the quarter sessions of such liberty or franchise shall appoint such number of the members of the standing joint committee under this Act as may be agreed upon by the county council, the quarter sessions of the county, and the quarter sessions of the liberty or franchise, or in default of agreement may be determined by a Secretary of State.

(4) The Cinque Ports and two ancient towns and their members shall for all purposes of the county council and of the powers and duties of quarter sessions and justices out of sessions under this Act form part of the county in which they are respectively situate, without prejudice nevertheless to the position of any such port, town, or member as a quarter sessions borough under the Municipal Corporations Act, 1882, as amended by this Act, and without prejudice to the existing privileges of such ports, towns, and members as respects matters which are not affected by this Act.

45 & 46 Vict. c. 50.

Power to make provisional order for Scilly Islands.

XLIX.—(1) It shall be lawful for the Local Government Board to make a provisional order for regulating the application of this Act to the Scilly Islands, and for providing for the exercise and performance in those islands of the powers and duties both of county councils and also of authorities under the Acts relating to highways and the Public Health Act, 1875, and the Acts amending the same, and for the application to the islands of any provisions of any Act touching local government, and any such order may provide for the establishment of councils and other local authorities separate from those in the county of Cornwall, and for the contribution by the Scilly Islands to the county council of Cornwall in respect of costs

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incurred by the county council for matters specified in the said order as benefiting the Scilly Islands, and such order may also provide for all matters which appear to the Local Government Board necessary or proper for carrying the order into full effect.

(2) Any such order shall not be in force until it is confirmed by Parliament.

(3) Subject to the provisions of a provisional order under this Act, the county council of Cornwall shall have no greater powers or duties in the Scilly Islands than the quarter sessions of Cornwall have hitherto in fact exercised or performed therein, and the Scilly Islands shall not be included for the purposes of this Act in any electoral division of the county of Cornwall.

## PART III.

*Boundaries.*

Boundary of county for first election.

L.—(1) The first council elected under this Act for any administrative county shall, subject as herein-after mentioned, be elected for the county at large as bounded at the passing of this Act for the purpose of the election of members to serve in Parliament for the county: Provided always, that—

(*a.*) This enactment shall not apply to the boundary between two administrative counties, which are portions of one entire county, and in case of those administrative counties, the boundary between the portions, as existing for the purposes of county rate, shall, subject to any change made by or in pursuance of this Act, be the boundary of the administrative county for which the council is elected; and,

(*b.*) Where any urban sanitary district is situate partly within and partly without the boundary of such county the district shall be deemed to be within that county which contains the largest portion of the population of the district, according to the census of one thousand eight hundred and eighty-one.

(*c.*) Where any portion of an administrative county has before the passing of this Act been transferred to another administrative county for the purposes of the Acts relating to the police or Contagious Diseases (Animals) or otherwise, nothing in this Act shall affect such transfer.

(*d.*) The wapentake of the ainsty of York (except so much as is included in the municipal borough of York as extended by the York Extension and Improvement Act, 1884) shall for all purposes of this Act be deemed to be part of the west riding of the county of York.

47 & 48 Vict. c. ccxxxii.

(2) The county council elected under this Act shall have for

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the purposes of this Act authority throughout the administrative county for which it is elected, and the administrative county as bounded for the purpose of the election shall, subject to alterations made in manner herein-after mentioned, be for all the purposes of this Act the county of such county council.

(3) If any difference arises as to the county which contains the largest portion of the population of any such district as above in this section mentioned, such difference shall be referred to the Local Government Board, whose decision shall be final.

(4) This section applies to an administrative county within the meaning of this Act, save that it shall not apply to the administrative county of London, nor to any county borough, and any place which, though forming part of any such borough for the purposes of the election of members to serve in Parliament, is not within the municipal boundary of such borough shall, notwithstanding anything in the foregoing provisions of this section, form, for the purposes of this section, part of the county in which such place is situate.

Directions for constitution of electoral divisions.

LI. In the constitution of electoral divisions of a county, whether for the first election or for subsequent elections, the following directions shall be observed—

(1) The divisions shall be arranged with a view to the population of each division being, so nearly as conveniently may be, equal, regard being had to a proper representation both of the rural and of the urban population, and to the distribution and pursuits of such population, and to area, and to the last published census for the time being, and to evidence of any considerable change of population since such census;

(2) Electoral divisions shall, so far as may be reasonably practicable, be framed so that every division shall be a county district or ward, or a combination of county districts or wards, or be comprised in one county district or ward, but where an electoral division is a portion of a county district or ward, and such portion has not a defined area for which a separate list or part of a list of voters is made under the Acts relating to the registration of electors, such portion shall, until a new register of electors is made, continue to be part of the district or ward of which it has been treated as being part in the then current register of electors;

(3) Whenever under the provisions of this section a county district is divided into two or more portions, every such portion shall, as far as possible, consist of an entire parish or of a combination of entire parishes;

(4) In determining the electoral divisions for the first election, the foregoing provisions shall apply as if, where a rural

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sanitary district is situate in more than one county, each portion of the district which is situate in the same county were a county district, and any such portion may be combined with a county district, or portion of a county district, although not adjoining;

(5) The electoral divisions for the first election shall be fixed or or before the eighth day of November next after the passing of this Act.

Provisional order as respects boroughs and urban sanitary districts in same area.

LII.—(1) The Local Government Board shall make provisional orders for dealing with every case where the council of a borough is not the urban sanitary authority for the whole of the area of such borough, and the area of the borough is either co-extensive with or is wholly or partly comprised in any urban sanitary district, and such order shall determine whether the area of the borough or of the sanitary district, or an area comprising both the borough and the urban sanitary district, or a portion of such united area, shall, whether with or without any adjoining area, be the area of the county district for the purposes of this Act, so, however, that in either case the order shall provide for the council of the borough becoming the district council, and the order may for that purpose alter the boundaries of the borough, and may, if need be, alter the boundaries of the county; and if the population exceeds fifty thousand, the order may constitute the borough into a county borough, and make such provision as may be necessary for carrying this Act into effect as respects such county borough; and the provisions of this Act respecting county boroughs shall, subject to the provisions of the order, apply.

(2) Where certain members of the sanitary authority for any such urban sanitary district are appointed by a university or any colleges therein, the order may provide for the appointment by such university or colleges of members on the district council.

(3) A provisional order under this section shall not be of any effect until it is confirmed by Parliament.

Consideration of alterations of boundaries by county councils.

LIII.—(1) Every report made by the Boundary Commissioners under the Local Government (Boundaries) Act, 1887, shall be laid before the council of any administrative county or county borough affected by that report.

(2) It shall be the duty of the council to take into consideration such report, and to make such representations to the Local Government Board as they think expedient for adjusting the boundaries of their county, and of other areas of local government partly situate in their county, with a view of securing that no such area shall be situate in more than one county.

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Future alterations of boundaries.

LIV.—(1) Whenever it is represented by the council of any county or borough to the Local Government Board—

(*a.*) That the alteration of the boundary of any county or borough is desirable; or

(*b.*) That the union, for all or any of the purposes of this Act, of a county borough with a county is desirable; or

(*c.*) That the union, for all or any of the purposes of this Act, of any counties or boroughs or the division of any county is desirable; or

(*d.*) That it is desirable to constitute any borough having a population of not less than fifty thousand into a county borough; or

(*e.*) That the alteration of the boundary of any electoral division of a county, or of the number of county councillors and electoral divisions in a county, is desirable; or

(*f.*) That the alteration of any area of local government partly situate in their county or borough is desirable,

the Local Government Board shall, unless for special reasons they think that the representation ought not to be entertained, cause to be made a local inquiry, and may make an order for the proposal contained in such representation, or for such other proposal as they may deem expedient, or may refuse such order, and if they make the order may by such order divide or alter any electoral division.

(2) Provided that in default of such representation by the council of any county or borough before the first day of November one thousand eight hundred and eighty-nine, the Local Government Board may cause such local inquiry to be made, and thereupon may make such order as they may deem expedient.

(3) Provided that if the order alters the boundary of a county or borough, or provides for the union of a county borough with a county, or for the union of any counties or boroughs, or for the division of any county, or for constituting a borough into a county borough, it shall be provisional only, and shall not have effect unless confirmed by Parliament.

(4) Where such order alters the boundary of a borough, it may, as consequential upon such alteration, do all or any of the following things, increase or decrease the number of the wards in the borough, and alter the boundaries of such wards, and alter the apportionment of the number of councillors among the wards, and alter the total number of councillors, and in such case, make the proportionate alteration in the number of aldermen.

(5) At any time before the appointed day, the Local Government Board may make an order in pursuance of this section without any such representation as in this section mentioned.

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Contents of provisional order amalgamating two county boroughs.

LV.—(1) Where the Local Government Board make a provisional order for uniting two county boroughs, such order may make them one borough and one county for the purposes of this Act.

(2) Such order, and also any other order under this Act for uniting boroughs, whether county boroughs or not, may also contain such provisions as may seem necessary or proper for regulating the division of the combined borough into wards, the number of councillors to be elected for each ward, and the first election of the council of the combined borough, and for providing for the clerks of the peace, coroners, town clerks, and officers of the boroughs, and the application to them of the provisions of this Act as to existing officers, and for providing for all matters incidental to or consequential on the union of the boroughs.

(3) When any such provisional order is confirmed, it shall be lawful for Her Majesty to grant a commission of the peace and court of quarter sessions to the combined borough in like manner as to any other borough under the Municipal Corporations Act, 1882, and the provisional order may contain such provisions as appear necessary or proper for regulating all matters incidental to such grant, and to the changes caused by the union of the boroughs in matters connected with such commission or court or otherwise with the administration of justice.

Procedure for charter of new borough.

LVI. Where a petition is presented to Her Majesty the Queen by the inhabitant householders of any town or towns or district, in pursuance of the Municipal Corporations Act, 1882, for the grant of a charter of incorporation, notice of such petition shall be given to the county council of the county in which such town, towns, or district is or are situate, and shall also be sent to the Local Government Board, and the Privy Council shall consider any representations made by such county council or the Local Government Board, together with the petition for such charter.

Future alteration of county districts and parishes and wards and

LVII.—(1) Whenever a county council is satisfied that a *primâ facie* case is made out as respects any county district not a borough, or as respects any parish, for a proposal for all or any of the following things: that is to say—

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Note.

Sub-s. (1).

The powers conferred by this sub-section are in addition to, and not in derogation of, the powers of the Local Government Board. (See sub-sect. (7), *infra*.)

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 60 (1), a county council is empowered to exercise powers of adding parishes to each other and dividing parishes into wards similar to those which by the Acts relating to the relief of the poor are, for the purpose of the election of guardians, vested in the Local Government Board.

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future establishment of urban districts.

(*a.*) The alteration or definition of the boundary thereof;

(*b.*) The division thereof or the union thereof with any other such district or districts, parish or parishes, or the transfer of part of a parish to another parish;

(*c.*) The conversion of any such district or part thereof, if it is a rural district, into an urban district, and if it is an urban district, into a rural district, or the transfer of the whole or any part of any such district from one district to another, and the formation of new urban or rural districts;

(*d.*) The division of an urban district into wards; and

(*e.*) The alteration of the number of wards, or of the boundaries of any ward, or of the number of members of any district council, or of the apportionment of such members among the wards,

the county council may cause such inquiry to be made in the locality, and such notice to be given, both in the locality, and to the Local Government Board, Education Department, or other Government department as may be prescribed, and such other inquiry and notices (if any) as they think fit, and if satisfied that such proposal is desirable, may make an order for the same accordingly.

(2) Notice of the provisions of the order shall be given, and copies thereof shall be supplied in the prescribed manner, and otherwise as the county council think fit, and if it relates to the division of a district into wards, or the alteration of the number of wards or of the boundaries of a ward, or of the number of the members of a district council, or of the apportionment of the members among the wards, shall come into operation upon being finally approved by the county council.

(3) In any other case the order shall be submitted to the Local Government Board; and if within *three months* after such notice of the provisions of the order as the Local Government Board determine to be the first notice, the council of any district affected by the order, or any number of county electors registered in that district or in any ward of that district, not being less than one-sixth of the total number of electors in that district or ward, or if the order relates only to a parish, any number of county electors registered in that parish, not being less than one-sixth of the total number of electors in that parish, petition the Local Government Board to disallow the order, the Local Government Board shall cause to be made a local inquiry, and determine whether the order is to be confirmed or not.

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Note. Sub-s. (3).

The time for petitioning under this sub-section is reduced from three months to six weeks by the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 41.

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(4) If any such petition is not presented, or being presented is withdrawn, the Local Government Board shall confirm the order.

(5) The Local Government Board, on confirming an order, may make such modifications therein as they consider necessary for carrying into effect the objects of the order.

(6) An order under this section, when confirmed by the Local Government Board, shall be forthwith laid upon the table of both Houses of Parliament, if Parliament be then sitting, and, if not, forthwith after the then next meeting of Parliament.

(7) This section shall be in addition to, and not in derogation of, any power of the Local Government Board in respect of the union or division or alteration of parishes.

Additional power of Local Government Board as to unions.

LVIII. The Local Government Board, where it appears expedient so to do with reference to any poor law union which is situate in more than one county instead of dissolving the union may by order provide that the same shall continue to be one union for the purposes of indoor paupers or any of those purposes, and shall be divided into two or more poor law unions for the purpose of outdoor relief, and may by the order make such provisions as seem expedient for determining all other matters in relation to which such union is to be one union or two or more unions.

Supplemental provisions as to alteration of areas.

LIX.—(1) A scheme or order under this Act may make such administrative and judicial arrangements incidental to or consequential on any alteration of boundaries, authorities, or other matters made by the scheme or order as may seem expedient.

(2) A place which is part of an administrative county for the purposes of this Act shall, subject as in this Act mentioned,

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Sect. 57. Note. Sub-s. (7).

The Local Government Board have powers under the following statutes in respect of the union, division, or alteration of parishes:—The Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 3; the Metropolitan Poor Amendment Act, 1869 (32 & 33 Vict. c. 63), ss. 4, 22; the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), ss. 1—9; the Poor Law Act, 1879 (42 & 43 Vict. c. 54); the Divided Parishes and Poor Law Amendment Act, 1882 (45 & 46 Vict. c. 58); the Local Government Act, 1894 (56 & 57 Vict. c. 73), ss. 36, 60.

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Sect. 58. Note.

The powers of the Local Government Board with respect to dissolving unions are conferred by the following statutes:—The Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 32; the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 66; the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 4; the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 11.

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form part of that county for all purposes, whether sheriff, lieutenant, custos rotulorum, justices, militia, coroner, or other; Provided that—

(*a.*) Notwithstanding this enactment, each of the entire counties of York, Lincoln, Sussex, Suffolk, Northampton, and Cambridge shall continue to be one county for the said purposes so far as it is one county at the passing of this Act; and

(*b.*) This enactment shall not affect the existing powers or privileges of any city or borough as respects the sheriff, lieutenant, militia, justices, or coroner; but, if any county borough is, at the passing of this Act, a part of any county for any of the above purposes, nothing in this Act shall prevent the same from continuing to be part of that county for that purpose; and

(*c.*) This enactment shall not affect Parliamentary elections nor the right to vote at the election of a member to serve in Parliament, nor land tax, tithes, or tithe rent-charge, nor the area within which any bishop, parson, or other ecclesiastical person has any cure of souls or jurisdiction.

(3) For the purposes of Parliamentary elections, and of the registration of voters for such elections, the sheriff, clerk of the peace, and council of the county in which any place is comprised at the passing of this Act for the purpose of Parliamentary elections shall, save as otherwise provided by the scheme or order, or by the County Electors Act, 1888, or this Act, continue to have the same powers, duties, and liabilities as they would have had if no alteration of boundary had taken place.

51 & 52 Vict c. 10.

(4) Any scheme or order made in pursuance of this Act may, so far as may seem necessary or proper for the purposes of the scheme or order, provide for all or any of the following matters, that is to say,—

(*a.*) May provide for the abolition, restriction, or establishment, or extension of the jurisdiction of any local authority in or over any part of the area affected by the scheme or order, and for the adjustment or alteration of the boundaries of such area, and for the constitution of the local authorities therein, and may deal with the powers and duties of any council, local authorities, quarter sessions, justices of the peace, coroners, sheriff, lieutenant, custos rotulorum, clerk of the peace, and other officer therein, and with the costs

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Sect. 59. Note. Sub-s. (4).

A burial board has been held to be a "local authority within sub-par. (*a*) of this sub-section (*Rex.* v. *Durham County Council*, reported in *Local Government Chronicle*, 1897, p. 70).

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of any such authorities, sessions, persons, or officers as aforesaid, and may determine the status of any such area as a component part of any larger area, and provide for the election of representatives in such area, and may extend to any altered area the provisions of any local Act, which were previously in force in a portion of the area; and

(*b.*) May make temporary provision for meeting the debts and liabilities of the various authorities affected by the scheme or order, for the management of their property, and for regulating the duties, position, and remuneration of officers affected by the scheme or order, and applying to them the provisions of this Act as to existing officers; and

(*c.*) May provide for the transfer of any writs, process, records, and documents relating to or to be executed in any part of the area affected by the scheme or order, and for determining questions arising from such transfer; and

(*d.*) May provide for all matters which appear necessary or proper for bringing into operation and giving full effect to the scheme or order; and

(*e.*) May adjust any property, debts, and liabilities affected by the scheme or order.

(5) Where an alteration of boundaries of a county is made by this Act an order for any of the above-mentioned matters may, if it appears to the Local Government Board desirable, be made by that board, but such order, if petitioned against by any council, sessions, or local authority affected thereby, within three months after notice of such order is given in accordance with this Act, shall be provisional only, unless the petition is withdrawn or the order is confirmed by Parliament.

(6) A scheme or order may be made for amending any scheme or order previously made in pursuance of this Act, and may be made by the same authority and after the same procedure as the original scheme or order. Where a provision of this Act respecting a scheme or order requires the scheme or order to be laid before Parliament, or to be confirmed by Parliament, either in every case or if it is petitioned against, such scheme or order may amend any local and personal Act.

General provisions as to alteration of boundaries.

LX. In every alteration of boundaries effected under the authority of this Act, care shall be taken that, so far as

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Note.

Sub-s. (6).

For the meaning of "local and personal Act" in this sub-section see *Reg.* v. *London County Council*, [1893] 2 Q. B. 455; 63 L. J. Q. B. 4; 69 L. T. 580; 42 W. R. 1; 58 J. P. 21.

Sect. 60.

Note.

This section is amplified by sect. 36 of the Local Government Act, 1894 (56 & 57 Vict. c. 73).

practicable, the boundaries of an area of local government shall not intersect the boundaries of any other area of local government. Sect. 60.

[Sect. 61. Appointment of commissioners: This section is not repealed, but the powers of the commissioners appointed thereunder expired finally on June 30th, 1892.]

Adjustment of property and liabilities.

LXII.—(1) Any councils and other authorities affected by this Act or by any scheme, order, or other thing made or done in pursuance of this Act, may from time to time make agreements for the purpose of adjusting any property, income, debts, liabilities, and expenses, so far as affected by this Act or such scheme, order, or thing, of the parties to the agreement, and the agreement and any other agreement authorized by this Act to be made for the purpose of the adjustment of any property, debts, liabilities, or financial relations, may provide for the transfer or retention of any property, debts, and liabilities, with or without any conditions, and for the joint use of any property, and for the transfer of any duties, and for payment by either party to the agreement in respect of property, debts, duties, and liabilities so transferred or retained, or of such joint user, and in respect of the salary, remuneration, or compensation payable to any officer or person, and that either by way of a capital sum, or of a terminable annuity for a period not exceeding that allowed by the commissioners under this Act or the Local Government Board.

(2) In default of an agreement as to any matter requiring adjustment for the purpose of this Act, or any matter which, in case of difference, is to be referred to arbitration, then, if no other mode of making such adjustment or determining such difference is provided by this Act, such adjustment or difference may be made or determined by an arbitrator appointed by the parties, or in case of difference as to the appointment, appointed by the Local Government Board.

(3) An arbitrator appointed under this Act shall be deemed to be an arbitrator within the meaning of the Lands Clauses Consolidation Act, 1845, and the Acts amending the same, and the provisions of those Acts with respect to an arbitration 8 & 9 Vict. c. 18.

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Sect. 62.

Note.

Sub-s. (1).

As to what matters may require adjustment under this section upon an alteration of the areas of two unions under this Act or the Local Government Act, 1894, see *Re Rochdale Union and Haslingden Union*, [1899] 1 Q. B. 540. Upon a case stated under sect. 29, *supra*, the court cannot decide the adjustment of liabilities under this section (*Re Salop County Council*, 65 L. T. 416).

Sub-s. (2).

Where an order of a county council has not provided for an adjustment of liabilities under sect. 59 (4), *supra*, an arbitrator may be appointed under this sub-section to make the adjustment (*Sowerby Urban District Council* v. *Mytholmroyd Urban District Council*, 74 L. T. 313).

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shall apply accordingly; and, further, the arbitrator may state a special case, and notwithstanding anything in the said Acts, shall determine the amount of the costs, and shall have power to disallow as costs in the arbitration the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers to have been incurred unnecessarily.

(4) Any award or order made by the commissioners or any arbitrator under this Act may provide for any matter for which an agreement might have provided.

(5) Any sum required to be paid for the purpose of adjustment, or of any award or order made by the commissioners, or an arbitrator under this Act, may be paid out of the county or borough fund or out of such other special fund as the council, with the approval of the commissioners under this Act or of the Local Government Board, may direct.

(6) The payment of any capital sum required to be paid for the purposes of the adjustment or of an agreement under this Act, or of any award or order made upon any arbitration under this Act, shall be a purpose for which a council may borrow under this Act, or in the case of a borough council, under the Municipal Corporations Act, 1882, or any local Act, and such sum may be borrowed on the security of all or any of the funds, rates, and revenues of the council, and either by the creation of stock or in any other manner in which they are for the time being authorized to borrow, and such sum may be borrowed without the consent of the Treasury or any other authority, so that it be repaid within such period as the Local Government Board may sanction, by such method as is mentioned in Part Four of this Act for paying off a loan, or, if the sum is raised by stock under a local Act, by such method as is directed by that Act.

(7) Any capital sum paid to any council for the purpose of any adjustment, or in pursuance of any order or award of an arbitrator under this Act shall be treated as capital, and applied, with the sanction of the Local Government Board, either in the repayment of debt or for any other purpose for which capital money may be applied.

Arbitration by Local Government Board.

LXIII. Where the Local Government Board *are required in pursuance of this Act to decide* any difference or other matter referred to arbitration in pursuance of this Act, the provisions

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Note.

In consequence of the decision in *Kent County Council* v. *Sandgate Local Board*, [1895] 2 Q. B. 43; 64 L. J. Q. B. 502; 72 L. T. 725; 43 W. R. 601; 59 J. P. 456, it is now provided by the Local Government (Determination of Differences) Act, 1896 (59 & 60 Vict. c. 9), s. 1, that this section is to be read as though for the words "are required in pursuance of this Act to decide" were inserted the words "determine as arbitrators."

of the Regulations of Railways Act, 1868, respecting arbitrations by the Board of Trade, and the enactments amending those provisions, shall apply as if they were herein re-enacted, and in terms made applicable to the Local Government Board and the decision of differences and matters under this Act.

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31 & 32 Vict. c. 119.

## PART IV.

## FINANCE.

### *Property Funds and Costs of County Council.*

Transfer of county property and liabilities.

LXIV.—(1) On and after the appointed day all property of the quarter sessions of a county, or held by the clerk of the peace, or any justice or justices of a county, or treasurer, or commissioners, or otherwise for any public uses and purposes of a county, or any division thereof, shall pass to and vest in and be held in trust for the council of the county, subject to all debts and liabilities affecting it, and shall be held by the county council for the same estate, interest, and purposes, and subject to the same covenants, conditions, and restrictions, for and subject to which that property is or would have been held if this Act had not passed, so far as those purposes are not modified by this Act. Provided that—

(*a.*) The existing records of or in the custody of the court of quarter sessions, subject to any order of that court, remain in the same custody in which they would have been if this Act had not passed; and

(*b.*) Where any property belongs to a charity, nothing in this Act shall affect the trust of such charity, and until otherwise directed by the Charity Commissioners for England and Wales, the trustees or managers of the charity shall be appointed in like manner as if this Act had not passed; and

(*c.*) The justices of any county may retain any pictures, chattels, or property on the ground that the same have been presented to them or purchased out of their own funds or otherwise belong to them, and are not held for public purposes of the county, and any difference arising between the county council and

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Note.
Sub-s. (1).

The visiting committee of a county lunatic asylum had in their hands a sum of money arising from the weekly sum fixed by the committee for the maintenance of each pauper lunatic producing an excess of receipts over the expenses of management. The questions raised were whether the committee or the county council (as representing the quarter sessions under this section) should have control of this money, and whether any part of it should be credited to the unions who had contributed towards it. It was held that the unions were not entitled to a return of any part of the monies which they had contributed, and that if the visiting committee did not apply the excess to any purpose for which they were authorized to apply it, they held it subject to the control of the county council (*Proctor* v. *Cheshire County Council*, 56 J. P. 532).

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the justices with respect to any such retention shall be referred to and determined by the commissioners under this Act.

(2) On and after the appointed day all debts and liabilities of the quarter sessions, or of the clerk of the peace, or any justice or justices, or treasurer, or commissioners, incurred for county purposes, shall become debts and liabilities of the county council, and shall, subject to the provisions of this Act, be defrayed by them out of the like property and funds out of which they would have been defrayed if this Act had not passed.

(3) The county council shall have full power to manage, alter, and enlarge, and, with the consent of the Local Government Board, to alienate any land or buildings transferred by this section, or otherwise vested in the council, but shall provide such accommodation and rooms, and such furniture, books, and other things as may from time to time be determined by the standing joint committee of quarter sessions and the county council, to be necessary or proper for the due transaction of the business, and convenient keeping of the records and documents, of the quarter sessions and justices out of sessions, or of any committee of such quarter sessions or justices.

(4) This section shall apply, with the necessary modifications, to the administrative counties of Sussex and Suffolk.

(5) This section shall apply in the case of the property, debts, and liabilities of the justices of all the ridings and divisions of the counties of York or Lincoln at their gaol sessions, or of commissioners appointed by the justices, in like manner as if it were herein re-enacted with the substitution of gaol sessions or commissioners for quarter sessions, and of clerk of gaol sessions for clerk of the peace, and as if the joint committee of the councils of the three ridings or divisions were the council of the county ; and the said joint committee shall, for the purposes of the said property, debts and liabilities, and for the transaction of the administrative business and execution of their duties under this Act, be a body corporate, with perpetual succession and a common seal, by the name of the county committee, with the prefix of the name of the county,

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Note. Sub-s. (3).

If session houses are occupied and used jointly by justices for the administration of justice and by a county council for administrative purposes, the county council are rateable in respect of the occupation by them in proportion to the value of their occupation (*Middlesex County Council* v. *St. George's, Hanover Square*, [1897] 1 Q. B. 64; 66 L. J. Q. B. 101; 75 L. T. 464; 48 W. R. 215; 61 J. P. 38; *Worcestershire County Council* v. *Worcester Union*, [1897] 1 Q. B. 480; 66 L. J. Q. B. 323; 76 L. T. 138; 45 W. R. 309; overruling *Nicholson* v. *Holborn Union*, 18 Q. B. D. 161; 56 L. J. M. C. 54; 55 L. T. 775; 34 W. R. 230; 51 J. P. 341).

and with power to acquire and hold land for the purposes of their constitution without licence in mortmain. Sect. 64.

(6) The county council of the soke of Peterborough shall be liable to repair the county bridges in the soke, and if any costs are incurred by the county council of the county of Northampton for the benefit of the soke, an adjustment thereof shall be made by agreement, or by arbitration in manner provided by this Act.

Power to acquire lands.

LXV.—(1) A county council may, from time to time, for the purpose of any of their powers and duties, including those which are to be executed through the standing joint committee, acquire, purchase, or take on lease, or exchange any lands or any easements or rights over or in land, whether situate within or without the county, and may acquire, hire, erect, and furnish such halls, buildings, and offices as they may from time to time require whether within or without their county.

(2) For the purpose of the purchase, taking on lease, or exchange of such lands, sections one hundred and seventy-six, one hundred and seventy-seven, and one hundred and seventy-eight of the Public Health Act, 1875, shall apply as if they were herein re-enacted, and in terms made applicable to the county council.

(3) Where the county council, with the consent of the Local Government Board, sell any land, the proceeds of such sale shall be applied in such manner as the said board sanction towards the discharge of any loan of the council, or otherwise for any purpose for which capital may be applied by the council.

Costs of justices to be payable out of county fund.

LXVI. All costs incurred by the quarter sessions or the justices out of session of a county, and all costs incurred by any justice, police officer, or constable, in defending any legal proceedings taken against him in respect of any order made, or act done, in the execution of his duty as such justice, police officer, or constable shall, to such amount as may be sanctioned by the standing joint committee of the county council and quarter sessions, and, so far as they are not otherwise provided for, be paid out of the county fund of the county, and the council of the county shall provide for such payment accordingly.

Adjustment of law as respects costs

LXVII. Any order of a court of quarter sessions, or of any justices or justice out of session, for the payment by the county

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By the Lunacy Act, 1890 (53 & 54 Vict. c. 5), s. 238 (4), for the purpose of providing asylum accommodation, a local authority, not being a county council, shall have the same powers as are conferred on a county council by this section. Note.

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The Burial of Drowned Persons Act, 1808 (48 Geo. 3, c. 75), as extended by the Burial of Drowned Persons Act, 1886 (49 & 50 Note.

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ordered by quarter sessions or justices to be paid.

treasurer of costs in criminal proceedings or of costs under the Act of the forty-eighth year of the reign of King George the Third, chapter seventy-five, shall be obeyed by the county treasurer in like manner as heretofore, and the county council shall cause the treasurer, or some other person on his behalf, to attend at every court of quarter sessions for the purpose of paying such sums as may be ordered by the court to be so paid.

Funds of county council.

LXVIII.—(1) All receipts of the county council, whether for general or special county purposes, shall be carried to the county fund, and all payments for general or special county purposes shall be made in the first instance out of that fund.

(2) In this Act the expression "general county purposes" means all purposes declared by this or any other Act to be general county purposes, and all purposes for contributions to which the county council are for the time being authorized by law to assess the whole area of their administrative county, and the expression "general county account" means the account of the county fund to which the contributions so raised are carried, and any costs incurred for a general county purpose shall be general expenses, and all costs incurred by the county council in the execution of their duties which are not by law made special expenses shall be general expenses.

(3) In this Act the expression "special county purposes" means any purposes from contribution to which any portion of the county is for the time being exempt, and also includes any purposes where the expenditure involved is by law restricted to a hundred, division, or other limited part of the county, and the expression "special county account" means any account of the county fund to which contributions for special county purposes are carried, and any costs incurred for a special county purpose shall be special expenses.

(4) If the monies standing to the general county account of the county fund are insufficient to meet the expenditure for general county purposes, county contributions may be levied to meet the deficiency on the whole administrative county, and shall be assessed on all the parishes in the county.

(5) If the monies standing to any special county account of

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Sect. 67. Note.

Vict. c. 20), provides for the burial by overseers or constables, &c., of persons found drowned on the sea-shore, or in or on the shore of tidal or navigable waters, and the recoupment of the expenses of such burial by the county treasurer. As to the form of the order on the treasurer to pay such expenses, see *Reg.* v. *Kent, Treasurer of*, 22 Q. B. D. 603; 58 L. J. M. C. 71; 60 L. T. 426; 37 W. R. 619; 53 J. P. 279.

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Sect. 68. Note.

See a similar provision in the Public Health Act, 1875 (38 & 39 Vict. c. 55), s. 210, as to general district rates.

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the county fund are insufficient to meet the expenditure for the special county purposes chargeable to that account, county contributions may be levied to meet the deficiency on any parishes in the county liable to be assessed to county contributions for those purposes.

(6) Any precept for county contributions may include as separate items a contribution for general county purposes, and a contribution for any special county purpose or purposes, and subject as in this or any other Act mentioned, county contributions, whether for general or special county purposes, which are liable to be assessed on the parishes, shall be assessed on such parishes in proportion to the annual value thereof, as determined by the standard or basis for the county rate, and all enactments applying to such standard or basis or to county rate shall (save as altered by this Act) apply so far as may be, consistently with the tenor thereof, to county contributions, and those enactments shall extend to all parishes within any borough which are liable under this Act to be assessed to county contributions.

(7) The county council shall keep such accounts as will prevent the whole administrative county from being charged with expenditure properly payable by a portion only of the county, and will prevent any sums raised in a portion only of the county being applied in reduction of expenditure properly payable by the whole or a larger part of the county, and will further secure any such exemption as above in this section mentioned, and will prevent any sums by law specifically applicable to any particular purpose from being applied to any other purpose.

(8) In determining the amount of expenditure for any particular county purpose, general or special, a proper proportion of the cost of the officers and buildings and establishment of the county council may be added to the expenditure directly expended for that purpose.

(9) County contributions may he made retrospective in order to raise money for the payment of costs incurred, or having become payable at any time within six months before the demand of the contributions.

Borrowing by county council.

LXIX.—(1) The county council may from time to time, with the consent of the Local Government Board, borrow, on the security of the county fund, and of any revenues of the council, or on either such fund or revenues, or any part of the

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Note.

Sub-s. (1).

By the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), ss. 62, 63, and the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 29, monies may be borrowed and applied by guardians of any parish and union for defraying the expenses of emigration of poor persons settled in the parish and union. Further powers of expending money for the purpose of assisting emigration are

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revenues, such sums as may be required for the following purposes, or any of them, that is to say;

(*a.*) For consolidating the debts of the county; and

(*b.*) For purchasing any land or building any building, which the council are authorized by any Act to purchase or build; and

(*c.*) For any permanent work or other thing which the county council are authorized to execute or do, and the cost of which ought in the opinion of the Local Government Board to be spread over a term of years; and

(*d.*) For making advances (which they are hereby authorized to make) to any persons or bodies of persons, corporate or unincorporate, in aid of the emigration or colonization of inhabitants of the county, with a guarantee for repayment of such advances from any local authority in the county, or the Government of any colony; and

(*e.*) For any purpose for which quarter sessions or the county council are authorized by any Act to borrow,

but neither the transfer of powers by this Act nor anything else in this Act shall confer on the county council any power to borrow without the consent above mentioned, and that consent shall dispense with the necessity of obtaining any other consent which may be required by the Acts relating to such borrowing, and the Local Government Board, before giving their consent, shall take into consideration any representation made by any ratepayer or owner of property rated to the county fund.

(2) Provided that where the total debt of the county council, after deducting the amount of any sinking fund, exceeds, or if the proposed loan is borrowed will exceed, the amount of one-tenth of the annual rateable value of the rateable property in the county, ascertained according to the standard or basis for the county rate, the amount shall not be borrowed, except in pursuance of a provisional order made by the Local Government Board and confirmed by Parliament.

(3) A county council may also from time to time, without any consent of the Local Government Board, during the period which was fixed for the discharge of any loan raised by them under this Act or transferred to them by this Act, borrow on the like security such amount as may be required for the purpose of paying off the whole or any part of such loan, or if any part of such loan has been repaid otherwise than by capital money for re-borrowing the amount so repaid, and for the

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Sect. 69. Note. Sub-s. (1).

conferred on guardians by the Poor Law Amendment Act, 1848 (11 & 12 Vict. c. 110), s. 5, the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), s. 20, and the Poor Law Amendment Act, 1850 (13 & 14 Vict. c. 101), s. 4.

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purpose of this section, "capital money" includes any instalments, annual appropriations, and sinking fund and the proceeds of the sale of land or other property, but does not include money previously borrowed for the purpose of repaying a loan.

(4) All money reborrowed shall be repaid within the period fixed for the discharge of the original loan, and every loan for reborrowing shall for the purpose of the ultimate discharge be deemed to form part of the same loan as the original loan, and the obligations of the council with respect to the discharge of the original loan shall not be in any way affected by means of the reborrowing.

(5) A loan under this section shall be repaid within such period, not exceeding thirty years, as the county council, with the consent of the Local Government Board, determine in each case.

(6) The county council shall pay off every loan either by equal yearly or half yearly instalments of principal, or of principal and interest combined, or by means of a sinking fund set apart, invested, and applied in accordance with the Local Loans Act, 1875, and the Acts amending the same. 38 & 39 Vict. c. 83.

(7) Where a loan is raised for any special county purpose, the council shall take care that the sums payable in respect of the loan are charged to the special account to which the expenditure for that purpose is chargeable.

(8) Where the county council are authorized to borrow any money on loan they may raise such money either as one loan or several loans, and either by stock issued under this Act, or by debentures or annuity certificates under the Local Loans Act, 1875, and the Acts amending the same, or, if special reasons exist for so borrowing, by mortgage, in accordance with sections two hundred and thirty-six and two hundred and thirty-seven of the Public Health Act, 1875. 38 & 39 Vict. c. 55.

(9) Provided that where a county council have borrowed by means of stock they shall not borrow by way of mortgage except for a period not exceeding five years.

(10) Where the county council borrow by debentures such debentures may be for any amount not less than five pounds.

(11) The provisions of this section which authorize advances in aid of the emigration or colonization of inhabitants of the county, and borrowing for those advances, except the provisions respecting the total debt, shall extend to the councils of boroughs mentioned in the third schedule to this Act.

(12) Nothing in this section shall be taken to empower the Cheshire County Council to borrow on the security of any revenue estimated to accrue from the surplus funds of the River Weaver Navigation.

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Issue of county stock.

LXX.—(1) County stock may be created, issued, transferred, dealt with, and redeemed in such manner and in accordance with such regulations as the Local Government Board may from time to time prescribe.

(2) Without prejudice to the generality of the above power, such regulations may provide for the discharge of any loan raised by such stock, and in the case of consolidation of debt for extending or varying the times within which loans may be discharged, and may provide for the consent of limited owners and for the application of the Acts relating to stamp duties and to cheques and for the disposal of unclaimed dividends, and may apply for the purposes of this section, with or without modifications, any enactments of the Local Loans Act, 1875, and the Acts amending the same, and of any Act relating to stock issued by the Metropolitan Board of Works, or by the corporation of any municipal borough.

(3) Such regulations shall be laid before each House of Parliament for not less than thirty days during which such House sits, and if either House during such thirty days resolves that such regulations ought not to be proceeded with the same shall be of no effect, without prejudice nevertheless to the making of further regulations.

(4) If no such resolution is passed it shall be lawful for Her Majesty by Order in Council to confirm such regulations, and the same when so confirmed shall be deemed to have been duly made and to be within the powers of this Act, and shall be of the same force as if they were enacted in this Act.

Audit of accounts of county council.

LXXI.—(1) The accounts of the receipts and expenditure of county councils shall be made up to the end of each local financial year as defined by this Act, and be in the form for the time being prescribed by the Local Government Board.

(2) The provisions of the Municipal Corporations Act, 1882, with respect to the return to the Local Government Board of the accounts of a council or of a borough and to the accounts of the treasurer of the borough, and to the inspection and abstract thereof shall apply to the accounts of a county council, and of the treasurer and officers of such council, and the said provisions respecting the return to the Local Government Board shall extend to the return to that board of a printed copy of the abstract of the said accounts.

(3) The accounts of a county council and of the county

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Note.

The Acts relating to audit by district auditors are the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), ss. 32—36; the Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91); the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), ss. 9, 11; the Poor Law Amendment Act, 1866 (29 & 30 Vict. c. 113), ss. 5—7; the District Auditors Act, 1879 (42 & 43 Vict. c. 6); and the Local Authorities (Expenses) Act, 1887 (50 & 51 Vict. c. 72).

treasurer and officers of such council, shall be audited by the district auditors appointed by the Local Government Board in like manner as accounts of an urban authority and their officers under sections two hundred and forty-seven and two hundred and fifty of the Public Health Act, 1875, and those sections and all enactments amending them or applying to audit by district auditors, including the enactments imposing penalties and providing for the recovery of sums, shall apply in like manner as if, so far as they relate to an audit of the accounts of an urban authority and the officers of such authority, they were herein re-enacted with the necessary modifications, and accordingly all ratepayers and owners of property in the county shall have the like rights, and there shall be the same appeal as in the case of such audit. Provided that the first schedule to the District Auditors Act, 1879, shall be modified in manner described in the second schedule to this Act.

38 & 39 Vict. c. 55.

42 & 43 Vict. c. 6.

Adaptation of Part V. of 45 & 46 Vict. c. 50, as to corporate property and liabilities.

LXXII. After the appointed day the Local Government Board shall exercise, as regards any county borough, or other borough, the powers conferred by Part V. of the Municipal Corporations Act, 1882, relating to corporate property and liabilities, as respects the approval of loans and of the alienation of property, and other matters therein mentioned, and that part shall, as respects any transactions commenced after the appointed day, be construed as if "Local Government Board" were throughout that part substituted for "Treasury."

*Local Financial Year and Annual Budget.*

Fixing of local financial year and consequent adjustments.

LXXIII.—(1) After the appointed day, not being more than three years after the passing of this Act, the local financial year shall be the twelve months ending the thirty-first day of March, and the accounts of the receipts and expenditure of every county council shall be made up for that year, but until the appointed day the local financial year shall be the twelve months ending the twenty-fifth day of March, and the said accounts shall be made up for that year.

(2) All enactments relating to accounts of local authorities, or the audit thereof, or to returns touching their receipts and expenditure, or to meetings, or other matters, shall be modified so far as is necessary for adapting them to the provisions of this section, and the Local Government Board shall from time to time give such orders and make such arrangements as appear to the board to be necessary or proper for effecting such adaptation, and giving effect to the provisions of this section.

Annual budget of county councils.

LXXIV.—(1) At the beginning of every local financial year, every county council shall cause to be submitted to them an estimate of the receipts and expenses of such council during that financial year, whether on account of property, contributions, rates, loans, or otherwise.

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(2) The council shall estimate the amount which will require to be raised in the first six months, and in the second six months of the said financial year by means of contributions.

(3) If at the expiration of the first six months of such financial year it appears to the council that the amount of the contribution or rate estimated at the commencement of the year will be larger than is necessary or will be insufficient, the council may revise the estimate and alter accordingly the amount of the contribution or rate.

## PART V.

### SUPPLEMENTAL.

*Application of Acts.*

Application of 45 & 46 Vict. c. 50, to county councils and this Act.
47 & 48 Vict. c. 70.

LXXV. For the purpose of the provisions of this Act with respect to county councils, and to the chairmen, members, committees, and officers of such councils, and otherwise for the purpose of carrying this Act into effect, the following portions of the Municipal Corporations Act, 1882, namely, Part Two, Part Three, Part Four (as amended by the Municipal Elections (Corrupt Practices) Act, 1884), section one hundred and twenty-four in Part Five, Part Twelve, Part Thirteen, the second schedule, Part Two and Part Three of the third schedule, and Part One of the eighth schedule shall, so far as the same are unrepealed and are consistent with the provisions of this Act, apply as if they were herein re-enacted with the enactments amending the same in such terms and with such modifications as are necessary to make them applicable to the said councils and their chairmen, members, committees, and officers, and to the other provisions of this Act.

Provided as follows:—

[Sub-sects. (1), (6), (9), (13), (16) (*d*), of this section are repealed by the County Councils Election Act, 1891 (54 & 55 Vict. c. 68).]

* * * * *

(2) Such person as the county council may appoint shall be the returning officer for the election of county councillors of the county council, in substitution for the mayor, and for the aldermen assigned for that purpose by the council.

(3) The returning officer, without prejudice to any other power, may by writing under his hand appoint a fit person to be his deputy for all or any of the purposes relating to the election of any such councillor, and may by himself or such deputy exercise any powers and do any things which a returning officer is authorized or required to exercise or do in relation to such election, and shall for the purposes of the election have all the powers of the sheriff.

(4) A reference in this Act, or in the enactments applied by this Act, to the returning officer or to the mayor or to the alderman shall, so far as relates to the election of any such councillor, be construed to refer to the returning officer, and any such deputy as above mentioned.

(5) A reference in the said enactments to the town clerk so far as respects the election of any such councillor shall be construed to refer to the returning officer or his deputy, and as respects matters subsequent to the election, shall be construed to refer to the clerk of the county council.

* * * * *

(7) Some place fixed by the returning officer shall, except where the election is in a borough, be substituted for the town clerk's office, and, as respects the hearing of objections to nomination papers, for the town hall, but such place shall, if the electoral division is the whole or part of an urban district, be in that district, and in any other case shall be in the electoral division or in an adjoining electoral division.

(8) The returning officer shall forthwith after the election of county councillors for the county return the names of the persons elected to the clerk of the county council.

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(10) An outgoing alderman shall not as alderman vote in the election of a chairman.

(11) The hours of the poll shall be those fixed by the Elections (Hours of Poll) Act, 1885. 48 & 49 Vict. c. 10.

(12) Section eleven of the Municipal Corporations Act, 1882, with respect to the qualification of a county councillor by reason of his being entered in the separate non-resident list, shall include, for the purposes of this Act, all persons entered in such separate list in any municipal borough by reason of occupation of property in the borough, and all persons entered in such separate list for any part of a county not in a municipal borough by reason of the occupation of property in that part.

* * * * *

(14) Ten days shall be substituted for five days in section thirty-four of the Municipal Corporations Act, 1882, as the time within which a person elected to a corporate office is to accept that office, and twelve months shall be substituted for six months in section thirty-nine of the said Act, as the period of absence which disqualifies an alderman or councillor.

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(15) The quorum of the council shall be one-fourth of the whole number of the council, and one-fourth shall, for the purposes of this section, be substituted for one-third in paragraph ten of the second schedule to the Municipal Corporations Act, 1882.

(16) Nothing in the Municipal Corporations Act, 1882, as applied by this section—

(*a.*) Shall alter the application of any fine, penalty, or forfeiture recoverable in a summary manner; or,

(*b.*) Shall apply any of the provisions of the Municipal Corporations Act, 1882, with reference to boundaries or the alteration of wards or borough auditors, nor any of the following provisions, namely, sub-section five of section fifteen, section sixteen, section two hundred and fifty-one, or section two hundred and fifty-seven; or

(*c.*) Shall render any person elected to a corporate office without his consent to his nomination being previously obtained liable to pay a fine on non-acceptance of office, or render a chairman or deputy chairman disqualified as such by reason of absence; or

* * * * *

(*e.*) Shall apply to a county council section seventeen of the said Act with respect to the town clerk, nor, unless the county council so resolve, section eighteen respecting the treasurer, but, if the county council so resolve, section eighteen shall supersede the existing enactments with respect to the county treasurer; or

(*f.*) Shall require the acts and proceedings of the standing joint committee of the county council and quarter sessions to be submitted to the county council for their approval; or

(*g.*) Shall prevent the use of schools and public rooms for the purpose of taking the poll at elections under this Act, but section six of the Ballot Act, 1872, shall apply in the case of elections under this Act, and the returning officer may, in addition to using such rooms free of charge for taking the poll, use the same free of charge for hearing objections to nomination papers and for counting votes.

35 & 36 Vict. c. 33.

(17) All costs properly incurred in relation to the holding of elections of councillors of county councils, so far as not otherwise provided for by law, shall be paid out of the county fund as general expenses.

(18) The said costs shall not exceed those allowed by Part I. of the first schedule to the Parliamentary Elections (Returning Officers) Act, 1875, as amended by the Parliamentary Elections (Returning Officers) Act,

38 & 39 Vict. c. 84.

48 & 49 Vict. c. 62.

1885, or by such scale as the county council may from time to time frame. Sect. 75.

(19) Sections four, five, six, and seven of the Parliamentary Elections (Returning Officers) Act, 1875, as amended by the Parliamentary Elections (Returning Officers) Act (1875) Amendment Act, 1886, shall apply as if they were herein re-enacted with the necessary modifications, and in particular with the substitution of the county council for the person from whom payment is claimed, and of one month for the period of fourteen days within which application may be made for taxation. 49 & 50 Vict. c. 57.

(20) A county council shall, on the request of the returning officer, prior to a poll being taken at any election of a councillor of such council, advance to him such sum not exceeding ten pounds for every thousand electors at the election as he may require.

(21) The meeting of a county council, or of any committee thereof, may be held at such place either within or without their county, as the council from time to time direct.

LXXVI.—(1) The provisions of section four of the County Electors Act, 1888, with respect to the framing of the lists and register of voters in parts shall extend to parishes situate within a Parliamentary borough. Amendment of 51 & 52 Vict. c. 10.

(2) In the provisions of section four of the said Act with respect to making out the lists of voters according to the order in which the qualifying premises appear in the rate-book, the county authority shall mean the county council.

(3) The names of the Parliamentary electors and county electors in the lists in each polling district may be numbered consecutively, and such portion of those lists as consists of the names of Parliamentary electors may be taken to form the register for the purpose of Parliamentary elections, and such portion of those lists as contains the names of county electors may be taken to form the register of county electors.

(4) For the purpose of the provisions of the Acts relating to the appointment of revising barristers, and of section nine of the County Electors Act, 1888, the county of Surrey and such portion of the county of London as is situated south of the Thames shall be deemed to be separate counties forming part of the south-eastern circuit; and such portion of the administrative county of London as is situate north of the Thames shall be deemed to form part of the county of Middlesex; and

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Note.

Sub-s. (1).

The effect of the amendments contained in this section will be found noticed in the notes to the County Electors Act, 1888 (51 & 52 Vict. c. 10), *ante*.

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the county of Middlesex, inclusive of that portion, shall be deemed to be a separate county on a circuit; but any sum payable by the London County Council in respect of either of the said portions of the county, shall be paid as for a general county purpose.

(5) The provisions of section eleven of the County Electors Act, 1888, with respect to the payment of the sums therein mentioned shall apply to the payment of the said sums in the year one thousand eight hundred and eighty-eight in like manner as if a county authority had not been established under this Act.

51 & 52 Vict. c. 10.

(6) It is hereby declared that nothing in section twelve of the County Electors Act, 1888, applies to any person occupying property within a borough.

(7) It shall be lawful for Her Majesty the Queen, by Order in Council, from time to time to alter the instructions, precepts, notices, and forms under the Registration of Electors Acts, in such manner as appears to Her Majesty necessary for carrying into effect this Act and the County Electors Act, 1888, and any other Act for the time being in force amending or affecting the Acts mentioned in this sub-section, and the instructions, precepts, notices, and forms specified in any such Order in Council shall be observed and be valid in law, and clerks of the peace, and town clerks, and other officers shall act accordingly.

(8) The provisions of section six of the said County Electors Act, 1888, requiring the statement of the barrister for the purpose of an appeal to be made not less than four days before the first day of the Michaelmas sittings shall not apply in the year one thousand eight hundred and eighty-eight.

Residential qualification of county electors in administrative county of London.

LXXVII. A person who is entitled to be registered as a county elector in respect of any qualification in the administrative county of London, in all respects except that of residence, and is resident beyond seven miles but within fifteen miles of the county, shall be entitled to be registered as a county elector.

Construction of Acts referring to business transferred.

LXXVIII.—(1) All enactments in any Act, whether general or local and personal, relating to any business, powers, duties or liabilities transferred by or in pursuance of this Act from any authority to a county council, either alone or jointly with the quarter sessions, or to any joint committee, shall, subject to the provisions of this Act, and so far as circumstances admit, be construed as if—

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Sect. 77. Note.

By virtue of this section persons whose names would otherwise be placed in the separate non-resident list are in London qualified to be registered as county electors, and the necessity of a non-resident list for London is abolished.

(*a.*) Any reference therein to the said authority or to any committee or member thereof or to any meeting thereof (so far as it relates to the business, powers, duties, or liabilities transferred) referred to the county council or to a committee or member thereof or to a meeting thereof, as the case requires, and as if—

(*b.*) A reference to any clerk or officer of such authority referred to the clerk or officer of a county council or committee thereof, as the case requires,

and all the said enactments shall be construed with such modifications as may be necessary for carrying this Act into effect.

(2) Provided that the transfer of powers and duties enacted by this Act shall not authorize any county council or any committee or member thereof—

(*a.*) To exercise any of the powers of a court of record; or

(*b.*) To administer an oath; or

(*c.*) To exercise any jurisdiction under the Summary Jurisdiction Acts, or perform any judicial business, or otherwise act as justices or a justice of the peace;

but this enactment shall be without prejudice to the position of the chairman of the county council as justice of the peace during his term of office.

(3) Where under any such enactment as in this section mentioned, any powers, duties, or liabilities are to be exercised or discharged after any presentment or in any particular manner, or at any particular meeting, or subject to any other conditions, the county council may, by the standing orders for the regulation of their proceedings, provide for the exercise and discharge of those powers, duties, and liabilities without any such prior presentment or in a different manner, or at any meeting of the council fixed by the standing orders, or without such other conditions; and until such standing orders take effect shall exercise and discharge them in the like manner, and at the like time, and subject to the like conditions, so nearly as circumstances admit; and a presentment by a grand jury in relation to any such powers, duties, or liabilities, shall cease to be made otherwise than by way of indictment.

(4) For the purposes of this section the expression "authority" means a Secretary of State, the Board of Trade, the Local Government Board, and any Government department, also any commissioners, conservators, or public body, corporate or unincorporate, specified in a provisional order transferring any powers, duties, or liabilities to the county council, also any quarter sessions and any justices, also the Metropolitan Board of Works, or other local authority mentioned in this Act; and the expression "member of an authority" includes, where the authority are quarter sessions or justices, any justice, and the

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expression "meeting of an authority" includes a court of quarter sessions and the assembly of justices in special or petty sessions; and the expression "clerk of an authority" includes in relation to any quarter sessions or justices, the clerk of the peace or the clerk to a justice as the case requires.

This section shall apply as if a joint committee were a committee of the county council.

*Proceedings of Councils and Committees.*

Incorporation of county council.

LXXIX.—(1) The council of each county shall be a body corporate by the name of the county council with the addition of the name of the administrative county, and shall have perpetual succession and a common seal and power to acquire and hold land for the purposes of their constitution without licence in mortmain.

(2) All duties and liabilities of the inhabitants of a county shall become and be duties and liabilities of the council of such county.

(3) Where any enactment (whether relating to lunatic asylums or bridges, or other county purposes, or to quarter sessions) requires or authorizes land to be conveyed or granted to, or any contract or agreement to be made in the name of, the clerk of the peace, or any justice or justices or other person, on behalf of the county or quarter sessions, or justices of the county, such land shall be conveyed or granted to, and such contract and agreement shall be made with, the council of the administrative county concerned.

Payments out of fund and finance committee of county council.

LXXX.—(1) All payments to and out of the county fund shall be made to and by the county treasurer, and all payments out of the fund shall, unless made in pursuance of the specific requirement of an Act of Parliament or of an order of a competent court, be made in pursuance of an order of the council signed by three members of the finance committee present at the meeting of the council and countersigned by the clerk of the council, and the same order may include several payments. Moreover all cheques for payment of monies issued in pursuance of such order shall be countersigned by the clerk of the council or by a deputy approved by the council.

(2) Any such order may be removed into the High Court of Justice by writ of *certiorari*, and may be wholly or partly disallowed or confirmed on motion and hearing with or without costs, according to the judgment and discretion of the court.

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Note. Sub-s. (2).

This provision is similar to that contained in sect. 141 of the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), and the decisions under that section will be applicable to cases arising under this section.

(3) Every county council shall from time to time appoint a finance committee for regulating and controlling the finance of their county; and an order for the payment of a sum out of the county fund, whether on account of capital or income, shall not be made by a county council, except in pursuance of a resolution of the council passed on the recommendation of the finance committee, and (subject to the provisions of this Act respecting the standing joint committee) any costs, debt, or liability exceeding fifty pounds shall not be incurred except upon a resolution of the council passed on an estimate submitted by the finance committee.

(4) The notice of the meeting at which any resolution for the payment of a sum out of the county fund (otherwise than for ordinary periodical payments), or any resolution for incurring any costs, debt, or liability exceeding fifty pounds will be proposed, shall state the amount of the said sum, costs, debt, or liability, and the purpose for which they are to be paid or incurred.

(5) This section shall not apply to county boroughs.

Appointment of joint committees.

LXXXI.—(1) Any county council or councils, and any court or courts of quarter sessions, may from time to time join in appointing out of their respective bodies a joint committee for any purpose in respect of which they are jointly interested.

(2) Any council or court taking part in the appointment of any joint committee under this section, may from time to time delegate to the committee any power which such council or court might exercise for the purpose for which the committee is appointed.

(3) Provided that nothing in this section shall authorize a council to delegate to a committee any power of making a rate or borrowing any money.

(4) Subject to the terms of delegation, any such joint committee shall, in respect of any matter delegated to it, have the same power in all respects as the councils and courts appointing it, or any of them, as the case may be.

(5) The members of a joint committee appointed under this Act shall be appointed at such times and in such manner as may be from time to time fixed by the council or court who appointed them, and shall hold office for such time as may be fixed by the council or court who appointed them, so that where any members of the committee were appointed by the county council, such committee do not continue for more than three months after any triennial election of councillors of such county council.

(6) The costs of a joint committee shall be defrayed by the council by whom any of its members were appointed, or if appointed by more than one council in the proportion agreed to by them; and the accounts of such joint committee and their

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officers shall, for the purposes of the provisions of this Act, be deemed to be accounts of the county council and their officers.

(7) This section shall apply to the councils of county boroughs in like manner as to councils of administrative counties, and a standing joint committee may be appointed for two or more administrative counties, inclusive of county boroughs, and the members of such joint committee shall be appointed by the several quarter sessions and councils in such proportion and manner as they respectively may arrange, and in default of arrangement as may be directed by a Secretary of State.

(8) This section shall apply to the standing joint committees.

Proceedings of committees.

LXXXII.—(1) A county council appointing under this Act any committee may from time to time make, vary, and revoke regulations respecting the quorum and proceedings of such committee, and as to the area (if any) within which it is to exercise its authority; and subject to such regulations the proceedings and quorum and the place of meeting, whether within or without the county, shall be such as the committee may from time to time direct, and the chairman at any meeting of the committee shall have a second or casting vote.

(2) Every committee shall report its proceedings to the council by whom it was appointed, but to the extent to which the council so direct, the acts and proceedings of the committee shall not be required by the provisions of the Municipal Corporations Act, 1882, to be submitted to the council for their approval.

(3) In the case of a joint committee the councils and courts appointing the joint committee shall jointly have the powers given by this section, and the provisions of this section shall apply accordingly.

*Officers.*

Clerk of the peace and of county council.

LXXXIII. Subject to the provisions of this Act for the protection of clerks of the peace holding office at the passing of this Act, the following provisions shall have effect:—

(1) The clerk of the peace of a county, besides acting as clerk of the peace of that county, shall also (subject to the provisions of this Act as respects particular counties) be the clerk of the county council, and in that capacity is referred to in this Act as the clerk of the county council.

(2) He shall be from time to time appointed by the standing

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Sect. 82. Note. Sub-s. (1).

The provisions of this section are by the Lunacy Act, 1890 (53 & 54 Vict. c. 5), s. 175, made applicable to the proceedings of a visiting committee appointed wholly or partly by a county council, and to the election of chairman of such committee.

joint committee of the county council and the quarter sessions, and may be removed by that joint committee.

(3) He shall, subject to the directions of the custos rotulorum or the quarter sessions or the county council, as the case may require, have charge of and be responsible for the records and documents of the county.

(4) The joint committee may appoint a deputy clerk to hold office during their pleasure, and to act in lieu of such clerk in case of his death, illness, or absence, or in such other cases as may be determined by the joint committee, and wherever the deputy so acts, all things authorized or required to be done by, to, or before the clerk of the peace, or clerk of the county council, may be done by, to, or before any such deputy; without prejudice to the appointment of a deputy clerk for the purpose of a second court on the division of the court of quarter sessions for judicial business.

(5) The council shall pay to the clerk of the peace in respect of his services as clerk of the peace and as clerk of the county council, such salary as may be from time to time fixed under the enactments relating thereto, and all fees and costs payable to the clerk of the peace which are not excluded when the salary of the clerk of the peace is fixed shall be paid to the county fund, and for the purpose of the enactments relating to such salaries and fees, the standing joint committee of the county council and the quarter sessions shall be substituted for the quarter sessions and the local authority respectively.

(6) The clerk of the peace, when acting in relation to any business of the county council, and when acting under the Acts relating to the registration of Parliamentary voters, or to the deposit of plans or documents, or to jury lists, or to any registration matters, shall act under the direction of the county council, and all enactments relating to such business, registration, or deposit, shall be construed as if clerk of the county council were therein substituted for clerk of the peace.

(7) The office of clerk of the peace of each of the administrative counties of Sussex and Suffolk shall be a separate office; but nothing in this Act shall prevent the same person from being appointed to both such offices; and the justices in general sessions assembled for the entire county of Sussex or Suffolk may from time to time appoint the person who is clerk of the peace for either administrative county to be clerk of the peace of such general sessions, and may remove such clerk, and the remuneration to be paid to such clerk shall be determined jointly by the standing joint committees for the administrative counties.

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(8) The existing records of the county of Sussex and of the county of Suffolk shall, subject to the order of quarter sessions, continue to be kept by the clerk of the peace of East Sussex and by the clerk of the peace for East Suffolk respectively.

(9) This section shall apply to the clerks of the peace and deputy clerks of the peace of the county of Lancaster, in like manner as it applies to clerks of the peace of any other county, but the appointment of any such deputy clerk of the peace may be discontinued if the standing joint committee think fit.

(10) The joint committee of the councils of the three ridings or divisions of Yorkshire and Lincolnshire may from time to time appoint a clerk of such joint committee, and may from time to time remove such clerk.

(11) The clerk of the peace for the county of London shall be a separate officer from the clerk of the county council for the administrative county of London, and

(*a.*) The clerk of the peace shall, subject to the directions of the quarter sessions, have charge of and be responsible for the records and documents of those sessions and of the justices out of session, and the clerk of the county council shall, subject to the directions of the council, have charge of and be responsible for all other documents of the county; and

(*b.*) The council may from time to time appoint a deputy clerk of the council, and the foregoing provisions of this section with respect to the deputy clerk shall apply; and

(*c.*) The council shall pay to the clerk of the council such salary as may be from time to time fixed by them.

(12) The county council shall cause their clerk or other officer from time to time to send to a Secretary of State or the Local Government Board such returns and information as may from time to time be required by either House of Parliament.

(13) Provided always, that no paid clerk or other paid official in the permanent employment of a county council who is required to devote his whole time to such employment shall be eligible to serve in Parliament.

Appointment of the justices'

LXXXIV.—(1) The salaried clerk of every petty sessional division shall be from time to time appointed, and removed, as heretofore.

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Note.

As to the appointment and payment of salaried clerks to justices for boroughs having no separate commission of the peace, see *Thetford* v. *Norfolk County Council*, [1898] 2 Q. B. 465; and *Huntingdon Corporation* v. *Huntingdon County Council*, [1901] 2 K. B. 257.

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clerks and clerks of committees.

(2) The county council shall pay to the salaried clerks of petty sessional divisions such salaries as may be fixed under the enactments relating to those clerks, and all fees and costs payable to such clerks which are not excluded in the fixing of their salaries shall be paid into the county fund, and in the enactments relating to such salaries and fees the standing joint committee shall be substituted for the quarter sessions justices and the local authority respectively.

[Sect. 85. Regulations for bicycles, &c.]

*Adaptation of Acts.*

Adaptation of Lunatic Asylum Acts.

LXXXVI. For the purpose of adapting the Acts relating to pauper lunatic asylums to the provisions of this Act, the following provisions shall have effect:—

* * * * *

(5) Any asylum provided in whole or in part at the cost of a county shall for the purposes of this Act be included in the expression "county lunatic asylum."

* * * * *

Application of provisions of 38 & 39 Vict. c. 55, as to local inquiries and provisional orders.

LXXXVII.—(1) Where the Local Government Board are authorized by this Act to make any inquiry, to determine any difference, to make or confirm any order, to frame any scheme, or to give any consent, sanction, or approval to any matter, or otherwise to act under this Act, they may cause to be made a local inquiry, and in that case, and also in a case where they are required by this Act to cause to be made a local inquiry, sections two hundred and ninety-three to two hundred and ninety-six, both inclusive, of the Public Health Act, 1875, shall apply as if they were herein re-enacted, and in terms made applicable to this Act.

(2) Sections two hundred and ninety-seven and two hundred and ninety-eight of the Public Health Act, 1875 (which relate to the making of provisional orders by the Local Government Board), shall apply for the purposes of this Act as if they were herein re-enacted, and in terms made applicable thereto.

(3) Provided that, where a provisional order transfers to county councils generally any powers, duties, or liabilities of Her Majesty's Privy Council, a Secretary of State, the Local Government Board, or other Government department, it shall not be necessary to hold a local inquiry nor to advertise in any local newspaper.

(4) Where any matter is authorized or required by this Act to be prescribed, and no other provision is made declaring how the same is to be prescribed, the same shall be prescribed from time to time by the Local Government Board.

(5) Where the board cause any local inquiry to be held under this Act, the costs incurred in relation to such inquiry,

Sect. 86.

Note.

The whole of this section except sub-sect. (5) is repealed by the Lunacy Act, 1890 (53 & 54 Vict. c. 5).

Sect. 87.

including the salary of any inspector or officer of the board engaged in such inquiry, not exceeding three guineas a day, shall be paid by the councils and other authorities concerned in such inquiry, or by such of them and in such proportions as the board may direct, and the board may certify the amount of the costs incurred, and any sum so certified and directed by the board to be paid by any council or authority shall be a debt to the Crown from such council or authority.

Adaptation of Act to metropolis.

LXXXVIII.—In the administrative county of London the following provisions shall have effect :

(*a.*) The county council may from time to time appoint any fit person to be deputy chairman, and to hold office during the term of office of the chairman, and may pay to such deputy chairman such remuneration as the county council may from time to time think fit ;

(*b.*) Subject to any rules from time to time made by the county council, anything authorized or required to be done by, to, or before the chairman, may be done by, to, or before such deputy chairman ;

* * * * *

[Sub-sect. (*c*) is repealed by the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76).]

Adjustment of law as regards courts, juries, sittings, and legal proceedings in Middlesex and London.

4 & 5 Will. 4, c. 36.

6 Geo. 4, c. 50.

LXXXIX.—(1) The Central Criminal Court Act, 1834, shall be construed as if the county of London were throughout mentioned therein as well as the county of Middlesex.

(2) The County Juries Act, 1825, and the Acts amending the same, shall apply to the county of London in like manner as they apply to the county of Middlesex, and persons shall be qualified to serve as jurors, and lists of jurors shall be made out in like manner, so nearly as circumstances admit, as in that county ; and the present exemption of inhabitants of the liberty and city of Westminster from serving on juries at quarter sessions for the county of Middlesex shall cease ; but nothing in this section shall alter the qualification of persons to serve as jurors within the city of London.

(3) Subject to rules of court made by the authority having power to make rules for the Supreme Court of Judicature, the county of London and the county of Middlesex shall be deemed to be one county for the purpose of all legal proceedings, civil or criminal, in the Supreme Court or Central Criminal Court, or any other court except the court of quarter sessions, and also for the purpose of the sittings of the Supreme Court, Central Criminal Court, or such other court as aforesaid, or of any judge of any of such courts, and also for the purpose of any jury, and of any court of assize, oyer and terminer, and gaol delivery ; and all enactments, rules, orders, and documents referring to Middlesex shall be construed so as to give effect to this section ; and rules of court may be from time to time made for the purpose of carrying this section into effect, and

for regulating the issue of precepts to the sheriffs of the counties of London and Middlesex for the return of jurors, and the jurors so returned shall have the same powers, duties, and liabilities as if the two counties were one county. Sect. 89.

XC. In the adjustment of the property, debts, and liabilities between the counties of Surrey and Middlesex respectively, and the county of London, the annual sums payable by the counties of Surrey and Middlesex respectively in respect of certain bridges in pursuance of the Metropolis Toll Bridges Act, 1877, shall be deemed to be liabilities which shall be taken into consideration upon such adjustment. Special provisions as to adjustment in the metropolis. 40 & 41 Vict. c. 99.

XCI. The Acts relating to the general and local militia of the rest of England and Wales shall apply to the whole of the county of London in like manner as they apply to any county at large; and accordingly Her Majesty shall from time to time appoint a lieutenant of the county of London, provided that nothing in this section shall affect section fifty of the Militia Act, 1882. Adjustment as regards the Militia Acts. 45 & 46 Vict. c. 49.

*Savings.*

XCII.—(1) Nothing in this Act, nor anything done in pursuance of this Act, shall alter the limits of any Parliamentary borough or Parliamentary county, or the right of any person to be registered as a voter at any Parliamentary election. Saving for votes at any Parliamentary elections.

(2) Where by virtue of the provisions of this Act with respect to the county of London, or to urban sanitary districts situate partly within and partly without the boundary of a county, a place situate in a Parliamentary county becomes part of the county of a council other than the council having authority over the largest part of the Parliamentary county, that is to say, the part which contains the largest number of occupation voters, then, for the purpose of making out and revising the lists of voters, of conducting any Parliamentary election, of polling districts, and assigning polling places, and for all purposes of and incidental to such matters, including the payment of expenses, such place shall be deemed to be part of the same county as the said largest part of the said Parliamentary county, and the sheriff, council, clerk of the peace, authorities, and officers of that county shall have authority accordingly in the said place, and the provisions of the Registration Act, 1885, with respect to Parliamentary counties, extending into more county quarter sessional areas than one, shall apply with the necessary modifications. 48 & 49 Vict. c. 15.

(3) Provided that the clerk of the peace who receives from

Sect. 92.

Note. Sub-s. (2).

See sect. 40, *supra*, for the provisions of this Act with respect to the county of London.

Sect. 92.

the revising barrister the lists of voters in any such place shall supply to any other clerk of the peace or other officer such number of revised lists as he may require for the purpose of making up a register of county electors.

Saving for metropolitan and city police.

XCIII.—(1) Nothing in this Act shall alter the metropolitan police district, nor (save as is expressly provided with respect to contributions in substitution for local grants) affect the metropolitan police force, or the raising of money for the same, and nothing in this Act shall affect the police of the city of London.

(2) Nothing in this Act shall authorize any county council to raise any sum for the purposes of any police force by any contribution or rate levied within the metropolitan police district; and nothing in this Act shall alter the authority under the Riot (Damages) Act, 1886, within the metropolitan police district or the city of London.

49 & 50 Vict. c. 38.

Saving for metropolitan common poor fund.

XCIV. The grant made by the county council of London in respect of indoor paupers shall be in addition to any payment made out of the metropolitan common poor fund, and nothing in this Act shall affect the enactments relating to the fund.

Saving as to Middlesex, Surrey, and Kent.

XCV.—(1) Any enactment providing that any magistrate, commissioner, or other officer shall be a justice of the peace for Middlesex, shall be construed to refer to the county of London as well as the county of Middlesex.

(2) Where any enactment, deed, instrument, or document refers to the county of Middlesex, Surrey, or Kent, such enactment, deed, instrument, or document shall be construed to apply to the same area to which it would have applied if this Act had not passed, except where such application is inconsistent with this Act, or where the object of such enactment, deed, instrument, or document requires that it shall be construed to apply to the county of London.

Saving for Middlesex Land Registry.

XCVI. Nothing in this Act shall alter the area to which the enactments relating to the registration of land in the county of Middlesex apply, and any reference in those enactments or in any deed, instrument, or document made or issued under or for the purpose of those enactments, to the county of Middlesex, shall be construed to apply to the same area to which it would have applied if this Act had not passed.

Saving as to liability for main roads.

XCVII. Nothing in this Act with respect to main roads shall alter the liability of any person or body of persons,

Sect. 94.

Note.

The grant by the London County Council is regulated by sect. 43, *supra*.

corporate or unincorporate, not being a highway authority, to maintain and repair any road or part of a road.

Saving for powers of Commissioners of Inland Revenue and Customs.

XCVIII. Notwithstanding anything in the foregoing sections of this Act, the Commissioners of Inland Revenue and the Commissioners of Customs, and the officers of those commissioners respectively, shall have the same powers in relation to any articles subject to any duty of customs or excise, manufactured, imported, kept for sale, or sold, and any premises where the same may be, and to any machinery, apparatus, vessels, utensils, or conveyances used in connexion therewith or the removal thereof, and in relation to the person manufacturing, importing, keeping for sale, or having the custody of the same, as they would have had if this Act had not passed, and any licences transferred in pursuance of this Act had continued to be granted by the Commissioners of Inland Revenue.

*Definitions.*

Definition of "written."

XCIX. All notices and documents required by this Act to be in writing may be in writing or print, or partly in writing and partly in print, and for the purposes of this section "print" includes any mechanical mode of reproduction.

Interpretation of certain terms in the Act.

C. In this Act, if not inconsistent with the context, the following terms have the meanings herein-after respectively assigned to them; that is to say:

The expression "county" does not include a county of a city or county of a town:

The expression "entire county" means, in the case of a county divided into administrative counties, the whole of the county formed by those administrative counties:

The expression "division of a county," in the provisions of this Act respecting the property of quarter sessions, includes any hundred, lathe, wapentake, or other like division:

The expression "administrative county" means the area for which a county council is elected in pursuance of this Act, but does not (except where expressly mentioned) include a county borough:

The expression "metropolis" means the city of London and the parishes and places mentioned in schedules (A.), (B.) and (C.) to the Metropolis Management Act, 1855, as amended by subsequent Acts: 18 & 19 Vict. c. 120.

The expression "borough" means any place for the time being subject to the Municipal Corporations Act, 1882, and any reference to the mayor, aldermen, and burgesses of a borough shall include a reference to the mayor, aldermen, and citizens of a city: 45 & 46 Vict. c. 50.

Sect. 100.

The expression "quarter sessions borough" means a borough having a separate court of quarter sessions, and includes a county of a city and a county of a town, subject to the Municipal Corporations Act, 1882:

The expression "quarter sessions" as respects any county, riding, division, or liberty, means the justices in quarter or general sessions assembled, and includes justices assembled in gaol sessions, annual general sessions, and adjourned sessions, and as respects any borough, means any court of quarter or general sessions held for the borough or for any county of a city or town consisting of the borough, whether held by the recorder or by justices, and as respects the city of London, means the court of the mayor and aldermen in the inner chamber:

The expression "parish" means a place for which a separate overseer is or can be appointed, and where part of a parish is situate within, and part of it without, any county, borough, urban sanitary district, or other area, means each such part:

The expressions "Parliamentary county" and "Parliamentary election," and "Parliamentary voters," have the same meaning as in the Registration Act, 1885, and the Acts therein referred to:

48 & 49 Vict. c. 15.

The expression "Secretary of State" means one of Her Majesty's principal Secretaries of State:

The expression "Treasury" means the Commissioners of Her Majesty's Treasury:

The expression "Bank of England" means the Governor and Company of the Bank of England:

The expression "existing" means existing at the time specified in the enactment in which the expression is used, and if no such time is expressed, then at the day appointed to be for the purpose of such enactment the appointed day:

The expression "guardians" means guardians elected under the Poor Law Amendment Act, 1834, and the Acts amending the same, and includes guardians or other bodies of persons performing under any local Act the like functions to guardians under the Poor Law Amendment Act, 1834:

4 & 5 Will. 4, c. 76.

The expression "poor law union" means any parish or union of parishes for which there is a separate board of guardians:

The expressions "district council" and "county district" mean respectively any district council established for purposes of local government under an Act of any future session of Parliament, and the district under the management of such council, and until such council is established, mean respectively—

(*a.*) As regards the provisions of this Act relating to highways and main roads, a highway authority and highway area; and

(*b.*) Save as aforesaid, an urban or rural sanitary authority within the meaning of the Public Health Act, 1875, and the district of such authority: 38 & 39 Vict. c. 55.

The expression "highway area" means, as the case may require, an urban sanitary district, a highway district, or a highway parish not included within any highway or urban sanitary district:

The expression "highway authority" means, as respects an urban sanitary district, the urban sanitary authority, and as respects a highway district, the highway board, or authority having the powers of a highway board, and as respects a highway parish, the surveyor or surveyors of highways or other officers performing similar duties:

The expression "urban authority" means, until the establishment of district councils as aforesaid, an urban sanitary authority; and, after their establishment, the district council of an urban county district:

The expression "rural authority" means, until the establishment of district councils as aforesaid, a rural sanitary authority; and, after their establishment, the district council of a rural county district:

The expression "person" includes any body of persons, whether corporate or unincorporate:

Any expression referring to the value of any parish, borough, or area as ascertained by the standard or basis for the county rate or contributions shall, where any rateable value has been fixed by agreement between the councils of any county and county boroughs be that value, and subject thereto shall, in the case of any parish, borough, or area for which there is no such standard or basis, refer to the total rateable value as determined by the last valuation lists, or if there is no valuation list, by the last poor rates for such parish or the parishes comprised in such borough or area; and where an area is authorized or directed by this Act to be assessed to any contributions or rates, the same shall, unless otherwise provided by law, be assessed according to the standard or basis for the county rate:

The expression "property" includes all property, real and personal, and all estates, interests, easements, and rights, whether equitable or legal, in, to, and out of property real and personal, including things in action, and registers, books, and documents; and when used in relation to any quarter sessions, clerk of the peace, justices, board, sanitary authority, or other authority, includes any property which on the appointed day belongs to, or is vested in, or held in

Sect. 100.

trust for, or would but for this Act have, on or after that day, belonged to, or been vested in, or held in trust for, such quarter sessions, clerk of the peace, justices, board, sanitary authority, or other authority; and the expression "property" shall further include, in the case of the county of Chester, any surplus revenue of the River Weaver Trust, which is or would but for this Act be payable to the quarter sessions:

The expression "powers" includes rights, jurisdiction, capacities, privileges, and immunities:

The expression "duties" includes responsibilities and obligations:

The expression "liabilities" includes liability to any proceeding for enforcing any duty or for punishing the breach of any duty, and includes all debts and liabilities to which any authority are or would but for this Act be liable or subject to, whether accrued due at the date of the transfer or subsequently accruing, and includes any obligation to carry or apply any money to any sinking fund or to any particular purpose:

The expression "powers, duties, and liabilities," includes all powers, duties, and liabilities conferred or imposed by or arising under any local and personal Act:

The expression "expenses" includes cost and charges:

The expression "costs" includes charges and expenses:

The costs of assizes and of quarter and petty sessions include such of the following costs as are applicable, that is to say, the costs of maintaining and providing the courts and offices and the judges' lodgings, the salaries and remuneration of a chairman of quarter sessions, clerks of assize, clerks of the peace, clerks of the justices, and other officers, the costs of the jury lists, the costs of rewards ordered to be paid by the court, the costs of prosecutions including the costs of the defendant's witnesses, and all other costs incidental to the assizes, quarter sessions, petty sessions, or the judges, but nothing shall require a quarter sessions borough to contribute towards the costs of prosecutions at assizes except in the case of prisoners committed for trial from the borough:

The expression "assizes" includes the Central Criminal Court:

The expression "pension" includes any superannuation allowance, gratuity, or other payment made on the retirement of any officer:

The expression "office" includes any place, situation, or employment, and the expression "officer" shall be construed accordingly:

The expression "the divisions of Lincolnshire" means the

parts of Holland, the parts of Kesteven, and the parts of Lindsey: Sect. 100.

The expression "County and Borough Police Act, 1856," means the Act of the session of the nineteenth and twentieth years of the reign of Her present Majesty, chapter sixty-nine, intituled "An Act to render more effectual the police in counties and boroughs in England and Wales," and the expression "County and Borough Police Acts" means the County and Borough Police Act, 1856, and the Acts therein recited: 19 & 20 Vict. c. 69.

The expression "main road," when used in relation to the district of any highway or road authority, means so much of the main road as is situate within the district of such authority.

In relation to the election of county councillors, the day of nomination shall be deemed to be the day on which the names of the persons nominated are fixed on the town hall or other conspicuous place.

CI. This Act shall not extend to Scotland or Ireland. Extent of Act.

CII. This Act may be cited as the Local Government Act, 1888. Short title.

## PART VI.

### TRANSITORY PROVISIONS.

* * * * *

[The only section classed among "transitory provisions" which it is necessary to print here is the following:—]

*Appointed Day.*

CIX.—(1) Subject as in this Act mentioned, the appointed day for the purposes of this Act shall in each county be the first day of April next after the passing thereof, or such other day, earlier or later, as the Local Government Board (but after the election of county councillors for such county on the application of the provisional council or county council) may appoint, either generally or with reference to any particular provision of this Act, and different days may be appointed for different purposes and different provisions of this Act, whether contained in the same section or in different sections or for different counties. Appointed day.

(2) Any enactment of this Act authorizing anything to be done by the Commissioners of Inland Revenue or the Local Government Board, or relating to the registration of electors, or to the elections, or to any matter required to be done for the purpose of bringing this Act into operation on the appointed day, shall come into effect on the passing of this Act; but, save as aforesaid, and save so far as there may be anything in the context inconsistent therewith, any enactment of this Act shall come into operation on the appointed day.

* * * * *

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*Savings.*

Saving for existing securities and discharge of debts.

CXXII.—(1) Nothing in this Act shall prejudicially affect any securities granted before the passing of this Act on the credit of any rate or of any property by this Act transferred to a county council; and all such securities, as well as all unsecured debts, liabilities, and obligations incurred by any authority in the exercise of any powers or in relation to any property transferred from them to the county council under this Act shall be discharged, paid, and satisfied by such council.

(2) Where for the purpose of satisfying any such security or any debt or liability, it is necessary to continue the levy of any rate or the exercise of any power which would have existed but for the provisions of this Act, such rate may continue to be levied and power to be exercised either by the authority who otherwise would have levied or exercised the same or by the county council as the case may require.

(3) It shall be the duty of every authority whose powers, duties, and liabilities are transferred to any council by this Act to liquidate so far as practicable before the appointed day all current debts and liabilities incurred by such authority.

Saving for existing byelaws.

CXXIII. All such byelaws, orders, and regulations of the Privy Council, Secretary of State, Board of Trade, Local Government Board, or Government department, or of any quarter sessions, council of a borough, the Metropolitan Board of Works, or other authority, whose powers and duties are transferred by or in pursuance of this Act to any county council, as are in force at the time of the transfer, shall, so far as they relate to or are in pursuance of the powers and duties transferred, continue in force as if they had been made by such council, subject, nevertheless, to revocation or alteration by such council in the manner in which byelaws can be made by such council, and also to any exceptions or modifications which may be made at the time of the transfer.

Saving for pending actions, contracts, &c.

CXXIV.—(1) If at the date of the transfer in this section mentioned any action or proceeding, or any cause of action or proceeding, is pending or existing by or against any authority in relation to any powers, duties, liabilities, or property by this Act transferred to the county council, the same shall not be in anywise prejudicially affected by reason of the passing of this Act, but may be continued, prosecuted, and enforced by or against such council as successors of the said authority in like manner as if this Act had not been passed.

(2) All contracts, deeds, bonds, agreements, and other instruments entered into or made and subsisting at the time of the transfer in this section mentioned, and affecting any such powers, duties, liabilities, or property of any authority as

are by this Act transferred to a county council, shall be of as full force and effect against or in favour of the council, and may be enforced as fully and effectually, as if, instead of the authority, the said council had been a party thereto.

(3) All contracts or agreements which prior to the appointed day have been made by the clerk of the peace or any justice or justices or otherwise on behalf of a county, or any division or part of a county, shall have effect as if the council of that county had been named therein instead of the clerk of the peace or such justice or justices, and may be enforced by or against the county council accordingly.

(4) This section shall apply in the case of a committee of any authority in like manner as if the committee were such authority, and the committee of a county council were that council, and as if contracts and agreements by any such committee appointed by quarter sessions were contracts and agreements on behalf of a county.

Saving for charters, local Acts, &c.

CXXV. Save so far as may be necessary to give effect to this Act or any scheme or order or other thing made or done thereunder nothing in this Act shall prejudicially alter or affect the powers, rights, privileges, or immunities of any municipal corporation, or the operation of any municipal charter, local Act of Parliament, or order confirmed by Parliament, which immediately before the passing of this Act was in force.

*Repeals.*

Repeal of Acts.

CXXVI. All enactments inconsistent with this Act are hereby repealed ; Provided that—

(1) Any enactment or document referring to any Act or enactment hereby repealed shall be construed to refer to this Act, or to the corresponding enactment in this Act :

(2) This repeal shall not affect—

(*a.*) The past operation of any enactment hereby repealed, nor anything duly done or suffered under any enactment hereby repealed ; or

(*b.*) Any right, privilege, obligation, or liability acquired, accrued, or incurred under or in accordance with any enactment hereby repealed ; or

(*c.*) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed ; or

(*d.*) Any power, investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid ; and any such power, investigation, legal proceeding, and remedy may be exercised and carried on as if this Act had not passed.

Schedule 1.

Section 20.

## FIRST SCHEDULE.

*Local Taxation Licences.*

Licences for the sale of intoxicating liquor for consumption on the premises:

- Retailers of spirits (publicans).
- Retailers of spirits, occasional licences.
- Retailers of beer.
- Retailers of beer, occasional licences.
- Retailers of beer and wine.
- Retailers of cider.
- Retailers of wine.
- Retailers of wine, occasional licences.
- Retailers of sweets.

Licences for the sale of intoxicating liquor by retail, by persons not licensed to deal therein, for consumption off the premises:

- Retailers of beer.
- Retailers of beer and wine.
- Retailers of cider.
- Retailers of wine.
- Retailers of sweets.
- Retailers of table beer.

Licences to deal in game.

Licences for—

- Beer dealers.
- Spirit dealers.
- Sweets dealers.
- Wine dealers.
- Refreshment house keepers.
- Dogs.
- Killing game.
- Guns.
- Appraisers.
- Auctioneers.
- Tobacco dealers.
- Carriages.
- Trade carts.
- Locomotives.
- Horses and mules.
- Horse dealers.
- Armorial bearings.
- Male servants.
- Hawkers.
- House agents.
- Pawnbrokers.
- Plate dealers.

Section 71.

## SECOND SCHEDULE.

*Alteration of Schedule to District Auditors Act*, 1879.
(42 & 43 *Vict. c.* 6.)

The following scale shall, until otherwise determined by Parliament, be substituted for so much of the scale set forth in the first schedule to the District Auditors Act, 1879, as relates to expenditure amounting to 100,000*l.* and upwards.

| Where the Total of the Expenditure comprised in the Financial Statement is | The Sum shall be |
|---|---|
| 100,000*l.* and under 150,000*l.* | 50*l.* |
| 150,000*l.* and under 200,000*l.* | 60*l.* |
| 200,000*l.* and upwards | 15*l.* in addition for every 50,000*l.* or part thereof. |

THIRD SCHEDULE.

**Schedule 3.**

Sections 31, 34, 35, 36, 69.

*County Boroughs.*

| Name of Borough. | Name of County in which, for the purpose of this Act, the Borough is deemed to be situate. |
|---|---|
| Barrow | Lancaster. |
| Bath | Somerset. |
| Birkenhead | Chester. |
| Birmingham | Warwick. |
| Blackburn | Lancaster. |
| Bolton | Lancaster. |
| Bootle cum Linacre | Lancaster. |
| Bradford | York, West Riding. |
| Brighton | Sussex. |
| Bristol | Gloucester and Somerset. |
| Burnley | Lancaster. |
| Bury | Lancaster. |
| Canterbury | Kent. |
| Cardiff | Glamorgan. |
| Chester | Chester. |
| Coventry | Warwick. |
| Croydon | Surrey. |
| Derby | Derby. |
| Devonport | Devon. |
| Dudley | Worcester. |
| Exeter | Devon. |
| Gateshead | Durham. |
| Gloucester | Gloucester. |
| Great Yarmouth | Norfolk and Suffolk. |
| Halifax | York, West Riding. |
| Hanley | Stafford. |
| Hastings | Sussex. |
| Huddersfield | York, West Riding. |
| Ipswich | Suffolk. |
| Kingston-upon-Hull | York, East Riding. |
| Leeds | York, West Riding. |
| Leicester | Leicester. |
| Lincoln | Lincoln (parts of Lindsey). |
| Liverpool | Lancaster. |
| Manchester | Lancaster. |
| Middlesbrough | York, North Riding. |
| Newcastle-upon-Tyne | Northumberland. |
| Northampton | Northampton. |
| Norwich | Norfolk. |
| Nottingham | Nottingham. |
| Oldham | Lancaster. |
| Plymouth | Devon. |
| Portsmouth | Hants. |
| Preston | Lancaster. |

Schedule 3.

THIRD SCHEDULE—*continued.*

| Name of Borough. | Name of County in which, for the purpose of this Act, the Borough is deemed to be situate. |
|---|---|
| Reading | Berks. |
| Rochdale | Lancaster. |
| Saint Helen's | Lancaster. |
| Salford | Lancaster. |
| Sheffield | York, West Riding. |
| Southampton | Hants. |
| South Shields | Durham. |
| Stockport | Chester and Lancaster. |
| Sunderland | Durham. |
| Swansea | Glamorgan. |
| Walsall | Stafford. |
| West Bromwich | Stafford. |
| West Ham | Essex. |
| Wigan | Lancaster. |
| Wolverhampton | Stafford. |
| Worcester | Worcester. |
| York | York, North, East, and West Ridings. |

# THE PREFERENTIAL PAYMENTS IN BANKRUPTCY ACT, 1888.

51 & 52 VICT. CHAP. 62.

An Act to amend the Law with respect to Preferential Payments in Bankruptcy, and in the Winding up of Companies. [24th December, 1888.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Priority of debts.

I.—(1) In the distribution of the property of a bankrupt, and in the distribution of the assets of any company being wound up under the Companies Act, 1862, and the Acts amending the same, there shall be paid in priority to all other debts—

(*a.*) All parochial or other local rates due from the bankrupt or the company at the date of the receiving order, or, as the case may be, the commencement of the winding up, and having become due and payable within twelve

Sect. 1.

Note.

Sub-s. (1) (*a*).

Before this Act it was a matter of frequent occurrence for an injunction to be granted under sect. 85 of the Companies Act, 1862,

months next before that time, and all assessed taxes, land tax, property or income tax assessed on the bankrupt or the company up to the fifth day of April next before the date of the receiving order, or, as the

Sect. 1.

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restraining proceedings for the enforcement of poor rates against a company in liquidation. (See *In re Flint Coal and Canal Co.*, 56 L. J. Ch. 232.)

Sect. 1. Note. Sub-s. (1) (*a*).

As to rates made after the commencement of the winding up of a company, the true test to be applied, in order to ascertain whether such rates ought to be paid in full in respect of property of a company, possession of which has been retained by the liquidator, is whether or no there has been a "beneficial occupation" within the meaning of the rating statutes, as to which see Archbold's Poor Law, 15th ed., p. 777 (*In re Blazer Fire Lighter, Limited*, [1895] 1 Ch. 402; 64 L. J. Ch. 161; 71 L. T. 665; 43 W. R. 364; *In re National Arms and Ammunition Co., Limited*, 28 Ch. D. 474; 54 L. J. Ch. 673; 52 L. T. 237; 33 W. R. 585). Therefore, where a caretaker was employed by a liquidator to take possession of the company's business premises and the plant thereon to prevent trespass and injury, though the business was not carried on and there was no intention of selling it as a going concern, it was held that there was a "beneficial occupation" in respect of which rates must be paid in full. Debts in respect of rates accruing due after a winding-up order are on the same footing as rent accruing due during the same period (*In re Blazer Fire Lighter, Limited, supra*, dissenting from *In re Watson, Kipling & Co., Limited*, 23 Ch. D. 500; 52 L. J. Ch. 473; 49 L. T. 115; see also *In re International Marine Hydropathic Co.*, 28 Ch. D. 470; 33 W. R. 587).

The official liquidator of a company in liquidation having been rated as owner and occupier under the description of official liquidator, it was held that whether he was rightly rated as occupier or not, he was not liable to have his own goods distrained for non-payment of the rate (*Reg.* v. *Curzon*, 46 L. T. (N. S.) 159; 47 J. P. 37).

But where the liquidator's name appeared in the rate-book as owner and occupier, and he did not appeal against the rate, and tendered no evidence that he was not in beneficial occupation, it was held that the justices were right in issuing a distress warrant against him (*Dent* v. *Commondale, Overseers*, 56 J. P. 519).

The appointment of a receiver and manager in a debenture holders' action does not relieve the property of a company from liability to distress for the whole rates for the half-year in which the order appointing the receiver is made, nor does the existence of an equitable charge created by debentures or a trust deed operate to protect the property against a distress (*In re Marriage, Neave & Co.*, [1896] 2 Ch. 663, overruling in part *Richards* v. *Kidderminster, Overseers*, [1896] 2 Ch. 212).

Now, by the Preferential Payments in Bankruptcy Amendment Act, 1897 (60 & 61 Vict. c. 19), the debts mentioned in sect. 1 of this Act have preference over the claims of holders of debentures or debenture stock under a floating charge.

On November 9th, 1898, holders of debentures of a company commenced an action to enforce their security, and a receiver was appointed. The debentures were a charge on the undertaking of the company and its property present and future. On December 1st, 1898, the company went into liquidation. In January, 1899,

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case may be, the commencement of the winding up, and not exceeding in the whole one year's assessment;

(*b.*) All wages or salary of any clerk or servant in respect of services rendered to the bankrupt or the company during four months before the date of the receiving order, or, as the case may be, the commencement of the winding up, not exceeding fifty pounds; and

(*c.*) All wages of any labourer or workman not exceeding twenty-five pounds, whether payable for time or for piece work, in respect of services rendered to the bankrupt or the company during two months before the date of the receiving order or, as the case may be, the commencement of the winding up: Provided that where any labourer in husbandry has entered into a contract for the payment of a portion of his wages in a lump sum at the end of the year of hiring, he shall have priority in respect of the whole of such sum, or a part thereof, as the court may decide to be due under the contract, proportionate to the time of service up to the date of the receiving order, or, as the case may be, the commencement of the winding up.

(2) The foregoing debts shall rank equally between themselves and shall be paid in full, unless the property of the bankrupt is, or the assets of the company are, insufficient to meet them, in which case they shall abate in equal proportions between themselves.

(3) Subject to the retention of such sums as may be necessary for the costs of administration or otherwise, the foregoing debts shall be discharged forthwith so far as the property of the debtor, or the assets of the company, as the case may be, is or are sufficient to meet them.

(4) In the event of a landlord or other person distraining or having distrained on any goods or effects of a bankrupt or a company being wound up within three months next before the date of the receiving order or the winding-up order respectively, the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on, or the proceeds of the sale thereof.

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Note.

Sub-s. (1) (*a*).

the receiver paid poor rate and district rate made in October, 1898, and water rate, which was payable according to meter. He claimed to be recouped these payments as preferential payments under this Act and the Amendment Act, 1897: *Held* that the question being one between mortgagor and mortgagee, not between successive occupiers, and the poor rate and district rate being due from the company at the date of the commencement of the winding up, the liquidators must pay the whole amounts out of the general assets of the company; but that the water rate was not due until the water was supplied, and must be apportioned, the liquidators paying only so much as was due at the date of the commencement of the winding up (*In re Mannesmann Tube Co., Limited; Von Siemens* v. *Mannesmann Tube Co., Limited*, [1901] 2 Ch. 93).

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Provided, that in respect of any money paid under any such charge the landlord or other person shall have the same rights of priority as the person to whom such payment is made.

(5) This section, so far as it relates to the property of a bankrupt, shall have effect as part of section forty of the Bankruptcy Act, 1883.

(6) This section shall apply, in the case of a deceased person who dies insolvent, as if he were a bankrupt, and as if the date of his death were substituted for the date of the receiving order.

Savings.

II.—(1) Nothing in this Act shall alter the effect of *section five of the Act twenty-eight and twenty-nine Victoria, chapter eighty-six*, "*To amend the law of partnership*," *or* shall prejudice the provisions of the Friendly Societies Act, 1875, or shall affect the priority given to the payment of funeral and testamentary expenses by section one hundred and twenty-five of the Bankruptcy Act, 1883.

(2) Nothing in this Act shall affect the provisions of the Stannaries Act, 1887. 50 & 51 Vict. c. 43.

Application of Act.

III. This Act shall apply only in the case of receiving orders and orders for the administration of the estates of deceased debtors according to the law of bankruptcy made and windings up commenced after the commencement of this Act.

Extent of Act.

IV. This Act shall not apply to Ireland.

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Sect. 2.

Note.

The Act 28 & 29 Vict. c. 86, is repealed and its provisions replaced by the Partnership Act, 1890 (53 & 54 Vict. c. 39).

The Friendly Societies Act, 1875 (38 & 39 Vict. c. 60), s. 15 (7), provides as follows: "Upon the death, or bankruptcy, or insolvency of any officer of a society (or branch), having in his possession by virtue of his office any money or property belonging to the society (or branch), or if any execution, attachment, or other process be issued, or action or diligence raised against such officer, or against his property, his heirs, executors, or administrators, or trustee in bankruptcy or insolvency, or the sheriff or other person executing such process, or the party using such action or diligence respectively shall, upon demand in writing of the trustees of the society (or branch), or any two of them, or any person authorized by the society (or branch), or by the committee of management of the same, to make such demand, pay such money and deliver over such property to the trustee of the society (or branch) in preference to any other debts or claims against the estate of such officer."

The Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 125 (7), provides as follows: "In the administration of the property of the deceased debtor under an order of administration, the official receiver shall have regard to any claim by the legal personal representative of the deceased debtor to payment of the proper funeral and testamentary expenses incurred by him in and about the debtor's estate, and such claims shall be deemed a preferential debt under the order, and be payable in full, out of the debtor's estate, in priority to all other debts."

Sect. 5.

Commencement of Act.

V. This Act shall commence and come into operation from and immediately after the last day of December, one thousand eight hundred and eighty-eight.

Repeal.

VI. The enactments specified in the schedule hereto are hereby repealed to the extent in the third column of that schedule mentioned.

Short title.

VII. This Act may be cited as the Preferential Payments in Bankruptcy Act, 1888.

SCHEDULE.

*Enactments Repealed.*

| Session and Chapter. | Title. | Extent of Repeal. |
|---|---|---|
| 46 & 47 Vict. c. 28 | The Companies Act, 1883. | The whole Act, except as regards its application to Ireland. |
| 46 & 47 Vict. c. 52 | The Bankruptcy Act, 1883. | Section forty, sub-sections one and two. |
| 49 & 50 Vict. c. 28 | The Bankruptcy (Agricultural Labourers' Wages) Act, 1886. | The whole Act. |

# THE ARMY (ANNUAL) ACT, 1889.

52 & 53 VICT. CHAP. 3.

An Act to provide, during twelve months, for the Discipline and Regulation of the Army. [11th April, 1889.]

* * * * *

Short title.

[I.] This Act may be cited as the Army (Annual) Act, 1889.

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Amendment of 44 & 45 Vict. c. 58, s. 91, as to lunatics.

V. Whereas doubts have arisen as to the effect of certain provisions of section ninety-one of the Army Act, 1881, and it is expedient to remove those doubts; be it therefore enacted as follows :—

(1) In sub-section three of the said section for the words "and shall be subject accordingly to the provisions of that section" shall be substituted the words "and the like proceedings shall be taken thereon as on an order under that section."

52 & 53 Vict. c. 3.

(2) In sub-section four of the same section for the words

Sect. 5.

Note.

These amendments have been introduced into the Army Act, 1881 (44 & 45 Vict. c. 58), s. 91, *ante*.

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"section eighty-five of the Act of the session of the twentieth and twenty-first years of the reign of Her present Majesty, chapter seventy-one, intituled, 'An Act for the regulation of the Care and Treatment of Lunatics, and for the provision, maintenance, and regulation of lunatic asylums in Scotland,' and shall be subject accordingly to the provisions of that section," shall be substituted the words "section fifteen of the Act of the session of the twenty-fifth and twenty-sixth years of the reign of Her present Majesty, chapter fifty-four, intituled 'An Act to make further provision respecting Lunacy in Scotland,' and the like proceedings shall be taken thereon as on an order under that section."

(3) In sub-section five of the said section for the word "soldier" shall be substituted the word "lunatic."

Amendment of 44 & 45 Vict. c. 58, s. 146, as to exemption from service as sheriff, &c.

VI. Whereas by section one hundred and forty-six of the Army Act, 1881, it is enacted as follows:

"A person who is commissioned and in full pay as an officer in Her Majesty's regular forces, shall not be capable of being nominated or elected to be sheriff of any county, borough, or other place, or to be mayor or alderman of, or to hold any office in, any municipal corporation in any city, borough, or place in the United Kingdom;"

And it is expedient that this section should apply to all commissioned officers in Her Majesty's regular forces whilst on the active list, although not on full pay: Be it therefore enacted, that in that section for the words "A person who is commissioned and in full pay as an officer in Her Majesty's regular forces," shall be substituted the words "An officer of the regular forces on the active list within the meaning of any Royal Warrant for regulating the pay and promotion of the regular forces."

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# THE ADVERTISING STATIONS (RATING) ACT, 1889.

52 & 53 VICT. CHAP. 27.

An Act to amend the Law with respect to rating Places used for Advertisements. [12th August, 1889.]

WHEREAS difficulties have arisen in relation to the assessment to poor and other rates of land used for exhibition of advertisements and it is expedient to remove the same:

Be it therefore enacted by the Queen's most Excellent

Sect. 6.

Note.

For the various persons exempt or disqualified from holding parochial offices, see Archbold's Poor Law, 15th ed., pp. 137, 138.

Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Sect. 1. Short title.

I. This Act may be cited as the Advertising Stations (Rating) Act, 1889.

Definitions.

II. In this Act the term "owner" means the person for the time being receiving or entitled to receive the rack-rent of the lands or premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive or be entitled to receive the same if such lands or premises were let at a rack-rent; and the word "person" shall be deemed to include any body of persons whether corporate or unincorporate.

Rating land used for

III. Where any land is used temporarily or permanently for the exhibition of advertisements, or for the erection of any

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Sect. 1. Note.

The object of this Act was to set at rest the difficulty in deciding whether advertisement hoardings were rateable or not.

Before 1889 hoardings erected for advertising purposes, the same being so placed that there was no exclusive occupation of the soil of a permanent nature, were not rateable, for a licence in the nature of an easement to erect advertising hoardings upon land in the possession of a licensor did not create in the licensee an occupation of the soil so as to render him liable to be rated in respect of the hoardings (*Reg.* v. *St. Pancras Assessment Committee*, 2 Q. B. D. 581; 46 L. J. M. C. 243; 41 J. P. 403). But if the advertiser had exclusive occupation of the land for the purpose of advertising, he was rateable. Thus, where by an agreement the owner of land let an advertising station to an agent for seven years at a yearly rent, the tenancy to commence from completion of erection, and the agent to pay rates and taxes, and advertising hoardings supported on posts fixed into the ground were accordingly erected, it was held that this agreement created a tenancy, and conferred an exclusive occupation, and not merely a licence, and that the agent was liable to be rated as occupier (*Taylor* v. *Pendleton*, 19 Q. B. D. 288; 56 L. J. M. C. 146; 57 L. T. 530; 35 W. R. 762; 51 J. P. 613).

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Sect. 2. Note.

Where premises are let at a rack-rent, and are again sub-let at a rack-rent, the lessor who receives the rack-rent from the actual occupier will be the "owner" within the meaning of the definition in this section (*Cook* v. *Montague*, L. R. 7 Q. B. 418; 41 L. J. M. C. 149; 37 J. P. 53). Under a similar definition clause in a private Act, it was held that an "agent" employed to collect rents of the property chargeable was an "owner," and was liable to pay the rates, whether he had monies of his principal in hand or not, at any time whilst the sum assessed upon the premises remained unpaid (*St. Helen's, Mayor, &c., of* v. *Kirkham*, 16 Q. B. D. 403; 50 J. P. 647); but a receiver appointed by the court is not an owner within the definition (*Bacup, Corporation of* v. *Smith*, 44 Ch. D. 395).

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Sect. 3. Note.

An advertising contractor under an agreement with the builders of certain buildings then in course of erection, used the hoardings

hoarding, frame, post, wall or structure used for the exhibition of advertisements but not otherwise occupied, the person who shall permit the same to be so used, or (if he cannot be ascertained) the owner thereof, shall be deemed to be in beneficial occupation of such land or part thereof, and shall be rateable in respect thereof to the relief of the poor and all local rates, according to the value of such use as aforesaid.

Sect. 3. advertisements and not otherwise occupied.

IV. Where any land or hereditament occupied for other purposes, and rateable in respect thereof to the relief of the poor and local rates, is used temporarily or permanently for the exhibition of advertisements, or for the erection thereon or attachment thereto of any hoarding, frame, post, wall, or structure used for the exhibition of advertisements, the gross and rateable value of such land or hereditament shall be so estimated as to include the increased value from such use as aforesaid.

Rating occupied hereditaments used for advertisements.

V. Where, under any power vested in them by any local or general Act, any corporation, board, vestry, urban sanitary, or other authority shall grant a licence for the temporary erection of any hoard, gantry, scaffold, or other structure upon or over any part of any public highway, or upon or over any lands or hereditaments the property of such corporation, board, vestry, sanitary, or other authority, such corporation, board, vestry, sanitary, or other authority may include in such licence a condition or conditions prohibiting the affixing of any advertisement to any such hoard, gantry, scaffold, or other structure, or sanctioning the affixing of advertisements thereto upon payment

Use of hoarding in roads for advertisements.

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erected by them for the exhibition of advertisements. His name having been inserted in a valuation list as the rateable occupier of the hoardings under the section, held that he did not "permit" the land on which the hoardings were erected to be "used for the exhibition of advertisements" within the meaning of this section, and was not liable to be rated in respect thereof (*Burton* v. *St. Giles' and George's Union*, [1900] 1 Q. B. 389).

Sect. 3. Note.

A contractor for the erection of buildings upon land vested in the Postmaster-General, erected a hoarding round the land, and in pursuance of a clause in the contract permitting the use of the hoarding for advertising purposes, let the hoarding to a firm of advertising agents. The hoarding was erected upon a public street under a licence granted by the Commissioners of Sewers: it was held that the hoarding had been erected upon land "not otherwise occupied" within the meaning of this section; that the contractor was the person who had permitted the land to be used for the exhibition of advertisements, and must therefore be deemed to be in beneficial occupation of the land, and was liable to be rated (*Chappell* v. *St. Botolph*, [1892] 1 Q. B. 561; 65 L. T. 581; 40 W. R. 192; 56 J. P. 310).

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A licence for the erection of a hoarding is rendered necessary by the Metropolis Management Act, 1855 (18 & 19 Vict. c. 120), s. 122, and by numerous local Acts.

Sect. 5. Note.

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of such sum and on such conditions as the corporation, board, vestry, sanitary, or other authority granting the licence may determine. And any person using any such hoard, gantry, scaffold, or other structure otherwise than as permitted by such licence shall for every offence be liable to a penalty not exceeding five pounds, and a further sum not exceeding forty shillings for every day during which such offence shall be continued after notice in writing to discontinue such use shall have been given to such person by such corporation, board, vestry, sanitary, or other authority, which penalties may be recovered in a summary way by such corporation, board, vestry, sanitary, or other authority.

The amount of any payments received or penalties recovered under this section shall be applied by the corporation, board, vestry, sanitary, or other authority receiving the same in aid of the rate levied for the repair of the highway.

Application of Act to Ireland.

VI. In the application of this Act to Ireland—

(1) Any land used temporarily or permanently for the exhibition of advertisements, or for the erection of any hoarding, frame, post, wall, or structure used for the exhibition of advertisements, shall be deemed to be a rateable hereditament within the meaning of the several Acts relating to the valuation of rateable property in Ireland, and shall be separately valued accordingly under the provisions of the said Acts;

(2) The expression "local rates" shall include grand jury cess;

(3) Section four shall be read and construed as if after the words "shall be so estimated" there were inserted the words "for the purposes of the several Acts relating to the valuation of rateable property in Ireland."

Commencement of Act.

VII. This Act shall come into operation on the twenty-ninth day of September, one thousand eight hundred and eighty-nine.

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# THE BOARD OF AGRICULTURE ACT, 1889.

52 & 53 VICT. CHAP. 30.

An Act for establishing a Board of Agriculture for Great Britain. [12th August, 1889.]

[It will be seen from the first schedule to this Act that various powers connected with poor law administration are transferred to the Board of Agriculture, and the Act is therefore printed here in full.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and

temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Sect. 1.

Establishment of Board of Agriculture.

I.—(1) There shall be established a Board of Agriculture consisting of the Lord President of the Council, Her Majesty's principal Secretaries of State, the First Commissioner of Her Majesty's Treasury, the Chancellor of Her Majesty's Exchequer, the Chancellor of the Duchy of Lancaster, and the Secretary for Scotland, and such other persons (if any) as Her Majesty the Queen may from time to time think fit to appoint during Her Majesty's pleasure: Provided that the Board shall not be entitled to act unless the President or one of the officers of State above mentioned is present.

(2) It shall be lawful for Her Majesty the Queen from time to time to appoint any member of the Privy Council to be President of the board during Her Majesty's pleasure.

(3) The board shall be deemed to be established on the appointment of the President thereof.

Powers and duties of board.

II.—(1) There shall be transferred to the Board of Agriculture—

(*a.*) The powers and duties of the Privy Council under the Acts mentioned in Part One of the first schedule to this Act;

(*b.*) The powers and duties of the Land Commissioners for England under the Acts mentioned in Part Two of the first schedule to this Act or under any other Act, whether general, local and personal, or private; and

(*c.*) On such date as shall be fixed by the Commissioners of Her Majesty's Treasury all powers and duties vested in the Commissioners of Her Majesty's Works and Public Buildings under the Survey Act, 1870. 33 & 34 Vict. c. 13.

(2) The Board of Agriculture shall also undertake the collection and preparation of statistics relating to agriculture and forestry, and may also undertake the inspection of, and reporting on, any schools which are not public elementary schools, and in which technical instruction, practical or scientific, is given in any matter connected with agriculture or forestry, and the aiding of any school which admits such inspection, and in the judgment of the board is qualified to receive such aid and the aiding of any system of lectures or instruction connected with agriculture or forestry, and the inspection of and reporting on any examinations in agriculture or forestry.

(3) The Board of Agriculture may also make or aid in making such inquiries, experiments, and research, and collect

Sect. 2.

or aid in collecting such information as they may think important for the purpose of promoting agriculture or forestry.

[Sect. 3. *Power as to dogs :* Repealed by the Diseases of Animals Act, 1894 (57 & 58 Vict. c. 57).]

Power to transfer other powers of Government departments.

IV. It shall be lawful for Her Majesty the Queen in Council from time to time by order to transfer to the Board of Agriculture such powers and duties of any Government department as are conferred by or in pursuance of any statute, and appear to Her Majesty to relate to agriculture or forestry, and to be of an administrative character ;

Provided that before any such order is made, the draft thereof shall be laid before each House of Parliament for not less than thirty days on which such House is sitting, and if either of such Houses before the expiration of such thirty days presents an address to Her Majesty against the draft or any part thereof, no further proceedings shall be taken thereon, without prejudice to the making of any new draft order.

Provided also, that nothing in this Act contained shall in any respect affect the exclusive control of the Secretary of State in Council of India over the candidates for the Indian Forest Department at Cooper's Hill College or elsewhere.

Staff and remuneration and expenses.

V.—(1) The Board of Agriculture may from time to time appoint a secretary and such officers and servants as the board may, with the sanction of the Treasury, determine.

(2) There shall be paid out of money provided by Parliament to the President, if not one of the officers of State above mentioned, nor any other officer of State receiving a salary, the annual salary of two thousand pounds a year, and to the secretary, officers, and servants of the board such salaries or remuneration as the Treasury may from time to time determine.

(3) All expenses incurred by the Board of Agriculture in the execution of their duties under this Act, to such amount as may be sanctioned by the Treasury, shall be paid out of money provided by Parliament.

Style and seal of board.

VI.—(1) The Board of Agriculture may sue and be sued, and may for all purposes be described, by that name.

(2) The board shall have an official seal, which shall be officially and judicially noticed, and such seal shall be authenticated by the signature of the President or some member of the board, or of the secretary, or some person authorized by the President of the board to act on behalf of the secretary.

(3) In the execution and discharge of any power or duty

transferred to the Board of Agriculture by or in pursuance of this Act, the board shall adopt and use the style and seal of the Board of Agriculture and no other.

Proceedings of board.

VII.—(1) Every document purporting to be an order, licence, or other instrument issued by the Board of Agriculture, and to be sealed with the seal of the board, authenticated in manner provided by this Act, or to be signed by a secretary or any person authorized by the President of the board to act on behalf of the secretary shall be received in evidence and be deemed to be such order, licence, or instrument without further proof, unless the contrary is shown.

(2) A certificate signed by the President or any member of the Board of Agriculture, that any order, licence, or other instrument purporting to be made or issued by the board is so made or issued, shall be conclusive evidence of the fact so certified.

Power of President to sit in Parliament.

30 & 31 Vict. c. 102, s. 52.

31 & 32 Vict. c. 48, s. 51.

31 & 32 Vict. c. 49, s. 11.

VIII.—(1) The office of President of the Board of Agriculture shall not render the person holding the same incapable of being elected to, or sitting or voting as a member of, the Commons House of Parliament, and shall be deemed to be an office included in schedule (H.) of the Representation of the People Act, 1867, schedule (H.) of the Representation of the People (Scotland) Act, 1868, and schedule (E.) of the Representation of the People (Ireland) Act, 1868.

(2) The President of the Board of Agriculture, if not one of the officers of State above in this Act mentioned, shall take the oath of allegiance and official oath, and shall be deemed to be included in the First Part of the schedule to the Promissory Oaths Act, 1868.

Transfer of officers.

IX.—(1) There shall be transferred and attached to the Board of Agriculture such of the persons employed under the Privy Council or any other Government department, in or about the execution of the powers and duties transferred by or in pursuance of this Act to the Board of Agriculture as the Privy Council, or Government department, with the sanction of the Treasury, determine.

(2) There shall be transferred and attached to the Board of Agriculture all persons employed under the Land Commissioners for England.

(3) The Board of Agriculture may from time to time distribute the business of the board amongst the several persons transferred thereto in pursuance of this Act in such manner as the board may think right, and those officers shall perform such duties in relation to that business as may be directed by the board.

Provided that such persons shall, while they continue in

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office, be in no worse position as respects their tenure of office, salaries, or superannuation allowances than they would have been in if this Act had not passed.

(4) Any Order in Council made in pursuance of this Act which transfers any powers or duties to the Board of Agriculture shall extend this section to the persons employed in or about the execution of those powers and duties.

Ultimate abolition of Land Commissioners.

X. After the establishment of the Board of Agriculture, no person shall be appointed to the office of land commissioner for England.

Provided that any person who holds office as land commissioner at the passing of this Act shall be assigned such position in or under the Board of Agriculture as Her Majesty may direct, so that he is not placed in any worse position as respects his tenure of office, salary, or superannuation allowance than he would have been in if this Act had not passed.

Construction of Acts and documents.

XI.—(1) In the construction and for the purposes of any Act of Parliament, judgment, decree, order, award, deed, contract, or other document passed, or made before the establishment of the Board of Agriculture, but so far only as may be necessary for the exercise of the powers or the discharge of the duties by this Act, or any Order in Council made in pursuance thereof, transferred to that board, the name of that board shall be substituted for the Privy Council, Land Commissioners for England, Inclosure Commissioners for England and Wales, Copyhold Commissioners, Tithe Commissioners for England and Wales, or other commissioners or Government department, as the case may require, and anything authorized or required to be done by, to, or before an assistant commissioner of any of the above-named commissioners may be lawfully done by any officer of the Board of Agriculture for the time being assigned for that purpose.

(2) Where anything has been commenced by or under the authority of the Privy Council, Land Commissioners, or other Government department, before the transfer to the Board of Agriculture of any powers or duties by or in pursuance of this Act, and such thing is in relation to the powers or duties so transferred, such thing may be carried on and completed by or under the authority of the Board of Agriculture.

(3) Where at the time of the transfer of any powers or duties by or in pursuance of this Act, any legal proceeding is pending, to which the Privy Council, Land Commissioners, or other Government department are parties, and such proceeding has reference to the powers and duties transferred by or in pursuance of this Act, the Board of Agriculture shall be substituted in such proceeding for the Privy Council, Land Commissioners, or other Government department, and such proceeding shall not abate by reason of such substitution.

XII. In this Act— Definitions.

The expression "agriculture" includes horticulture:

The expression "the Treasury" means the Commissioners of Her Majesty's Treasury:

The expression "the Privy Council" means Her Majesty's most Honourable Privy Council.

XIII. The Acts specified in the second schedule to this Act are, as from the date of the establishment of the Board of Agriculture, hereby repealed to the extent in the third column of that schedule mentioned: Repeal.

Provided that this repeal shall not affect the tenure of office, salary, or allowance of any person holding office at the passing of this Act, and shall not affect the exercise by the Board of Agriculture of any power which at the passing of this Act can be exercised by the Land Commissioners for England, and shall not affect the validity of any order or act which prior to the date of the said establishment has been made or done by the Privy Council, and all orders of the Privy Council in force at that date in relation to the powers and duties transferred by this Act to the Board of Agriculture shall continue in force until revoked or altered by that board.

XIV. This Act may be cited as the Board of Agriculture Act, 1889. Short title.

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## FIRST SCHEDULE.

### PART I.

Section 2.

*Acts relating to Powers and Duties of the Privy Council transferred to Board of Agriculture.*

| Session and Chapter. | Title. |
|---|---|
| 40 & 41 Vict. c. 68 . | The Destructive Insects Act, 1877. |
| 41 & 42 Vict. c. 74 . | *The Contagious Diseases (Animals) Act*, 1878. |
| 47 & 48 Vict. c. 13 . | *The Contagious Diseases (Animals) Act*, 1884. |
| 47 & 48 Vict. c. 47 . | *The Contagious Diseases (Animals) Transfer of Parts of Districts Act*, 1884. |
| 49 & 50 Vict. c. 32 . | *The Contagious Diseases (Animals) Act*, 1886. |

[All these Acts printed in italics are now repealed by 57 & 58 Vict. c. 57, s. 78, except sect. 34 of 41 & 42 Vict. c. 74, and sect. 9 of 49 & 50 Vict. c. 32, and even these sections are repealed as to London by 54 & 55 Vict. c. 76, s. 142.]

Schedule 1.

## PART II.

*Acts relating to Powers and Duties of Land Commissioners for England.*

*Tithe Rent-Charge Acts.*

| Session and Chapter. | Title or Short Title. |
|---|---|
| 6 & 7 Will. 4, c. 71 . | An Act for the Commutation of Tithes in England and Wales. |
| 7 Will. 4 & 1 Vict. c. 69 | An Act to amend an Act for the Commutation of Tithes in England and Wales. |
| 1 & 2 Vict. c. 64 . . | An Act to facilitate the merger of Tithes in Land. |
| 2 & 3 Vict. c. 62 . . | An Act to explain and amend the Acts for the Commutation of Tithes in England and Wales. |
| 3 & 4 Vict. c. 15 . . | An Act further to explain and amend the Acts for the Commutation of Tithes in England and Wales. |
| 5 & 6 Vict. c. 54 . . | An Act to amend the Acts for the Commutation of Tithes in England and Wales, and to continue the Officers appointed under the said Acts for the time to be limited. |
| 9 & 10 Vict. c. 73 . . | An Act further to amend the Acts for the Commutation of Tithes in England and Wales. |
| 10 & 11 Vict. c. 104 . | An Act to explain the Acts for the Commutation of Tithes in England and Wales, and to continue the Officers appointed under the said Acts until the first day of October, one thousand eight hundred and fifty, and to the end of the then next session of Parliament. |
| 23 & 24 Vict. c. 93 . | An Act to amend and further extend the Acts for the Commutation of Tithes in England and Wales. |
| 31 & 32 Vict. c. 89 . | An Act to alter certain provisions in the Acts for the Commutation of Tithes, the Copyhold Acts, and the Acts for the Inclosure, Exchange, and Improvement of Land; and to make provision towards defraying the expense of the Copyhold, Inclosure, and Tithe Office. |
| 36 & 37 Vict. c. 42 . | *The Tithe Commutation Acts Amendment Act*, 1873. [Repealed by the S. L. R. Act, No. 2, 1893.] |
| 40 & 41 Vict. c. iii. . | The Vicar's Rate in Halifax Act, 1877. |
| 41 & 42 Vict. c. 42 . | An Act to amend and further extend the Acts for the Commutation of Tithes in England and Wales. |

PART II. (*continued*). Schedule 1.

| Session and Chapter. | Title or Short Title. |
|---|---|
| 42 & 43 Vict. c. clxxvi. . | The London (City) Tithes Act, 1879. |
| 44 & 45 Vict. c. cxcvii. . | The London (City) Tithes (St. Botolph Without, Aldgate) Act, 1881. |
| 48 & 49 Vict. c. 32 . | The Tithe Rent-charge Redemption Act, 1885. |
| 49 & 50 Vict. c. 54 . | The Extraordinary Tithe Redemption Act, 1886. |
| 51 & 52 Vict. c. lxix. . | The St. Botolph Without, Aldgate, Tithe Rate Act, 1888. |

*Copyhold Acts.*

| Session and Chapter. | Title or Short Title. |
|---|---|
| 4 & 5 Vict. c. 35 . . | *The Copyhold Act*, 1841. |
| 6 & 7 Vict. c. 23 . . | *The Copyhold Act*, 1843. |
| 7 & 8 Vict. c. 55 . . | *The Copyhold Act*, 1844. |
| 15 & 16 Vict. c. 51 . | *The Copyhold Act*, 1852. |
| 21 & 22 Vict. c. 94 . | *The Copyhold Act*, 1858. |
| 31 & 32 Vict. c. 89 . | An Act to alter certain provisions in the Acts for the Commutation of Tithes, the Copyhold Acts, and the Acts for the Inclosure, Exchange, and Improvement of Land; and to make provision towards defraying the expense of the Copyhold, Inclosure and Tithe Office. |
| 50 & 51 Vict. c. 73 . | *The Copyhold Act*, 1887. |

[All these Acts printed in italics are repealed by 57 & 58 Vict. c. 46, s. 100.]

*Inclosure of Commons and Allotments Acts.*

| Session and Chapter. | Short Title. |
|---|---|
| 8 & 9 Vict. c. 118 . . | The Inclosure Act, 1845. |
| 9 & 10 Vict. c. 70 . . | The Inclosure Act, 1846. |
| 10 & 11 Vict. c. 111 . | The Inclosure Act, 1847. |

Schedule 1.

*Inclosure of Commons and Allotments Acts (continued).*

| Session and Chapter. | Short Title. |
|---|---|
| 11 & 12 Vict. c. 99 . | The Inclosure Act, 1848. |
| 12 & 13 Vict. c. 83 . | The Inclosure Act, 1849. |
| 14 & 15 Vict. c. 53 . | The Inclosure Commissioners Act, 1851. |
| 15 & 16 Vict. c. 79 . | The Inclosure Act, 1852. |
| 17 & 18 Vict. c. 97 . | The Inclosure Act, 1854. |
| 20 & 21 Vict. c. 31 . | The Inclosure Act, 1857. |
| 22 & 23 Vict. c. 43 . | The Inclosure Act, 1859. |
| 31 & 32 Vict. c. 89 . | The Inclosure, &c., Expenses Act, 1868. |
| 36 & 37 Vict. c. 19 . | The Poor Allotments Management Act, 1873. |
| 39 & 40 Vict. c. 56 . | The Commons Act, 1876. |
| 41 & 42 Vict. c. 56 . | The Commons (Expenses) Act, 1878. |
| 42 & 43 Vict. c. 37 . | The Commons Act, 1879. |
| 45 & 46 Vict. c. 15 . | The Commonable Rights Compensation Act, 1882. |
| 50 & 51 Vict. c. 48 . | The Allotments Act, 1887. |

*Metropolitan Commons.*

| Session and Chapter. | Title or Short Title. |
|---|---|
| 29 & 30 Vict. c. 122 . | The Metropolitan Commons Act, 1866. |
| 32 & 33 Vict. c. 107 . | The Metropolitan Commons Amendment Act, 1869. |
| 41 & 42 Vict. c. 71 | The Metropolitan Commons Act, 1878. |

*Drainage and Improvement of Land Acts.*

| Session and Chapter. | Title or Short Title. |
|---|---|
| 9 & 10 Vict. c. 101 . | The Public Money Drainage Act, 1846. |
| 10 & 11 Vict. c. 11 . | The Public Money Drainage Act, 1847. |
| 10 & 11 Vict. c. 38 . | An Act to facilitate the Drainage of Lands in England and Wales. |

*Drainage and Improvement of Land Acts (continued).* Schedule 1.

| Session and Chapter. | Title or Short Title. |
|---|---|
| 11 & 12 Vict. c. 119 . | The Public Money Drainage Act, 1848. |
| 13 & 14 Vict. c. 31 . | The Public Money Drainage Act, 1850. |
| 14 & 15 Vict. c. 91 . | *The Public Money Drainage Act*, 1851. [Repealed by the S. L. R. Act, 1892.] |
| 19 & 20 Vict. c. 9 . . | The Public Money Drainage Act, 1856. |
| 24 & 25 Vict. c. 133 . | The Land Drainage Act, 1861. |
| 27 & 28 Vict. c. 114 . | The Improvement of Land Act, 1864. |
| 30 & 31 Vict. c. 101 . | The Public Health (Scotland) Act, 1867. |
| 33 & 34 Vict. c. 56 . | The Limited Owners Residences Act, 1870. |
| 34 & 35 Vict. c. 84 . | The Limited Owners Residences Act (1870) Amendment Act, 1871. |
| 38 & 39 Vict. c. 55 . | The Public Health Act, 1875. |
| 40 & 41 Vict. c. 31 . | The Limited Owners, Reservoirs, and Water Supply Further Facilities Act, 1877. |

*Other Duties.*

| Session and Chapter. | Title or Short Title. |
|---|---|
| 12 & 13 Vict. c. xci. . | The General Land Drainage and Improvement Company's Act, 1849. |
| 15 & 16 Vict. c. 62 . | An Act to alter and amend certain Acts relating to the Woods, Forests, and Land Revenues of the Crown. |
| 16 & 17 Vict. c. cliv. . | The Lands Improvement Company's Act, 1853. |
| 18 & 19 Vict. c. lxxxiv. . | The Lands Improvement Company's Amendment Act, 1855. |
| 19 & 20 Vict. c. lxx. . | The Scottish Drainage and Improvement Company's Act, 1856. |
| 21 & 22 Vict. c. 44 . | The Universities and College Estates Act, 1858. |
| 22 & 23 Vict. c. lxxxii. . | The Land Improvement Company's Amendment Act, 1859. |
| 23 & 24 Vict. c. 59 . | The Universities and College Estates Extension Act, 1860. |
| 23 & 24 Vict. c. clxix. . | The Land Loan and Enfranchisement Company's Act, 1860. |

Schedule 1.

*Other Duties (continued).*

| Session and Chapter. | Title or Short Title. |
|---|---|
| 23 & 24 Vict. c. clxx. | The Scottish Drainage and Improvement Company's Amendment Act, 1860. |
| 26 & 27 Vict. c. cxl. | The Lands Improvement Company's Amendment Act, 1863. |
| 29 & 30 Vict. c. 70 | An Act to extend the provisions of the Acts for the Inclosure, Exchange, and Improvement of Land to certain portions of the Forest of Dean called Walmore Common and the Bearce Common, and for authorizing Allotments in lieu of the Forestal Rights of Her Majesty in and over such Commons. |
| 31 & 32 Vict. c. 118 | The Public Schools Act, 1868. |
| 34 & 35 Vict. c. clviii. | The Thames Valley Drainage Act, 1871. |
| 36 & 37 Vict. c. 62 | The Public Schools (Eton College Property) Act, 1873. |
| 37 & 38 Vict. c. xxii. | The Thames Valley Drainage Act, 1874. |
| 40 & 41 Vict. c. xxxvi. | The Somersetshire Drainage Act, 1877. |
| 40 & 41 Vict. c. 48 | The Universities of Oxford and Cambridge Act, 1877, and Statutes made thereunder. |
| 43 & 44 Vict. c. 46 | The Universities and College Estates Amendment Act, 1880. |
| 44 & 45 Vict. c. 41 | The Conveyancing and Law of Property Act, 1881. |
| 45 & 46 Vict. c. 38 | The Settled Land Act, 1882. |
| 46 & 47 Vict. c. 61 | The Agricultural Holdings (England) Act, 1883. |
| 47 & 48 Vict. c. 67 | The Improvement of Lands (Ecclesiastical Benefices) Act, 1884. |
| 50 & 51 Vict. c. 30 | The Settled Land Acts (Amendment) Act, 1887. |
| 51 & 52 Vict. c. 20 | The Glebe Lands Act, 1888. |

SECOND SCHEDULE. **Schedule 2.**

*Enactments Repealed.* Section 13.

| Session and Chapter. | Title of Act. | Extent of Repeal. |
|---|---|---|
| 6 & 7 Will. 4, c. 71 . | An Act for the Commutation of Tithes in England and Wales. | Section two. |
| 4 & 5 Vict. c. 35 . | The Copyhold Act, 1841 | Sections one, two, four, five, seven, eight, and nine. |
| 8 & 9 Vict. c. 118 . | The Inclosure Act, 1845 | Sections two, six, and eight. |
| 14 & 15 Vict. c. 53 . | The Inclosure Commissioners Act, 1851. | The whole Act, except section nine. |
| 25 & 26 Vict. c. 73 . | An Act for continuing the Copyhold Inclosure and Tithe Commission, and entitling the Commissioners to Superannuation Allowance. | The whole Act so far as unrepealed. |
| 40 & 41 Vict. c. 68 . | The Destructive Insects Act, 1877. | Section six. |
| 41 & 42 Vict. c. 74 . | The Contagious Diseases (Animals) Act, 1878. | Section eight from "the powers by this Act conferred" inclusive to the end of the section, being sub-section two, and section fifty-eight from "any Act of the Privy Council" inclusive to the end of the section, being sub-section six. |
| 45 & 46 Vict. c. 38 . | The Settled Land Act, 1882. | Section forty-eight down to "may require of the three several bodies of commissioners aforesaid," being the end of sub-section five, inclusive. |

# THE POOR LAW ACT, 1889.

52 & 53 VICT. CHAP. 56.

An Act to amend the Law respecting Children in Workhouses, and respecting the borrowing of Money by Guardians and Managers of District Schools, and respecting the Managers of the Metropolitan Asylum District.

[30th August, 1889.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Control of guardians over child deserted by parent.

I.—(1) *Where a child is maintained by the guardians of any union and was deserted by its parent, the guardians may at any time resolve that such child shall be under the control of the guardians until it reaches the age, if a boy, of sixteen, and if a girl, of eighteen years, and thereupon until the child reaches that age all the powers and rights of such parent in respect of that child shall, subject as in this Act mentioned, vest in the guardians;*

*Provided that the guardians may rescind such resolution, if they think that it will be for the benefit of the child that it should be rescinded, or may permit such child to be either permanently or temporarily under the control of such parent, or of any other relative, or of any friend.*

(2) *A court of summary jurisdiction, if satisfied on complaint made by a parent of the child, that the child has not been maintained by the guardians, or was not deserted by such parent, or that it is for the benefit of the child that it should be either permanently or temporarily under the control of such parent, or that the resolution of the guardians should be determined, may make an order accordingly, and any such order shall be complied with by the guardians, and if the order determines the resolution, the resolution shall be thereby determined as from the date of the order, and the guardians shall cease to have the rights and powers of the parent as respects such child.*

(3) For the purposes of this Act a child shall be deemed to be maintained by the guardians if it is wholly or partly maintained by them in a workhouse or in any district school,

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Note.

Sub-ss. (1) & (2).

Sub-s. (3).

Sub-sects. (1), (2), and (4) of this section are repealed by the Poor Law Act, 1899 (62 & 63 Vict. c. 37), s. 1, and replaced by the provisions of sect. 1 of that Act.

As to district schools, see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), ss. 40—49. Separate schools and infirmaries

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separate school, separate infirmary, sick asylum, hospital for infectious diseases, institution for the deaf, dumb, blind, or idiots, or any certified school under the Act of the session of the twenty-fifth and twenty-sixth years of the reign of Her present Majesty, chapter forty-three, or is boarded out by the guardians, whether within or without the limits of the union.

(4) *Where a parent is imprisoned under a sentence of penal servitude or imprisonment in respect of an offence committed against a child, this section shall apply as if such child had been deserted by that parent.*

(5) Nothing in this section shall relieve any person from any liability to contribute to the maintenance of a child, but the fact of such contribution being made shall not deprive the guardians of any of the powers and rights conferred on them by this section.

(6) Nothing in this section shall authorize the guardians to cause a child to be educated in any religious creed other than that in which the child would have been educated but for any resolution of the guardians under this section, nor affect the enactments respecting the religious education of a child maintained by the guardians, or respecting the right of any minister of the same religious persuasion as the child to visit and instruct

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Note.

under management distinct from the workhouses of the unions or parishes to which they belong are regulated by orders of the Poor Law Board and Local Government Board, collected in Macmorran & Lushington's Poor Law Orders, p. 271. As to sick asylums and hospitals for infectious diseases, see Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), s. 5, and the orders collected at p. 923 of Macmorran & Lushington's Poor Law Orders. For the maintenance and education of deaf, dumb or blind paupers, see the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 21; the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 123), s. 42, and the Elementary Education (Blind and Deaf Children) Act, 1893 (56 & 57 Vict. c. 42). For the maintenance of pauper idiots in asylums or institutions, see the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 13, and the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), s. 5. Children are boarded out without the limits of the union under the "General Boarding-out Order," May 28th, 1889, and within the limits of the union under the "General Boarding-out of Children in Unions Order," May 28th, 1889.

Sub-s. (3).

Sub-s. (4).

See note to sub-sect. (1), *supra*.

Sub-s. (5).

For the liability of parents and relations to contribute to the maintenance of children, see Archbold's Poor Law, 15th ed., pp. 255—266.

Sub-s. (6).

In addition to the enactments in the schedule provision is made by the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 43, as to the religious education of children in district schools and asylums, and their visitation by ministers of their religious persuasion. Visits of ministers of the religious persuasion of any inmate of a workhouse are provided for by art. 122 of the Gen. Cons. Order, July 27th, 1847.

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the child, nor affect any of the enactments specified in the schedule to this Act, which enactments relate to the religious education of children maintained by guardians.

Borrowing by guardians and managers of district schools, &c.

II. Whereas it is expedient to simplify and to express in one enactment the purposes and amount for and to which guardians of unions and managers of district schools and asylums have powers to borrow and otherwise to amend those powers: Be it therefore enacted as follows:—

(1) The guardians of any union may, with the sanction of the Local Government Board, borrow for the purpose of raising the expenses incurred, or proposed to be incurred, for any permanent work or object, or any other thing the costs of which ought in the opinion of the Local Government Board to be spread over a term of years.

(2) A loan shall not be of such amount as exceeds, or will make the total debt of the guardians under the Acts relating to the relief of the poor exceed one-fourth of the total annual rateable value of the union.

(3) The Local Government Board may, by provisional order, extend the said maximum to double the amount above authorized, and sections two hundred and ninety-seven and two hundred and ninety-eight of the Public Health Act, 1875, shall apply to every such provisional order in like manner as if they were herein re-enacted and the guardians were a local authority.

(4) The unapplied balance of any loan raised by any guardians may, with the consent of the Local Government Board,

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Sect. 2. Note. Sub-s. (1).

This section is amended by the Poor Law Act, 1897 (60 & 61 Vict. c. 29), which provides that repayment of a loan may be extended over sixty years; for establishment of a sinking fund, and for borrowing without the consent of the Local Government Board to repay outstanding loans; and also repeals many enactments relating to the borrowing powers of guardians.

Statutory corporations have no power to borrow except such as is given to them by statutes, and even the overdrawing of a banking account may amount to an authorized borrowing, so that the auditor may surcharge the members of the corporation in respect of the interest paid on the overdraft (*Reg.* v. *Reed*, 5 Q. B. D. 483; 49 L. J. Q. B. 600; 42 L. T. 835; 28 W. R. 787).

Sub-s. (2).

By the Poor Law Act, 1897 (60 & 61 Vict. c. 29), s. 2, the provisions in this section as to loans by guardians as amended by that Act are made applicable for the purpose of borrowing under the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), instead of sect. 17 of that Act (which is repealed), but with the substitution of "one-tenth of the rateable value of the district" for the words in this sub-section "one-fourth of the total annual rateable value of the union."

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be applied to any purpose for which a loan can be raised under this Act by such guardians.

(5) This section shall apply to the managers of any school district . . . in like manner as if they were guardians and this section were in terms made applicable thereto, but with the substitution of one-sixteenth of the annual rateable value of the district for one-fourth of the annual rateable value of the union.

(6) All enactments in the Acts relating to the relief of the poor touching the purposes for which and the amount to which guardians of unions and managers of any school or asylum district to whom this section applies may borrow, shall be repealed without prejudice to anything done thereunder, but every loan under this

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Part of this sub-section which applied to managers of an asylum district not being the metropolitan asylum district is repealed by the Poor Law Act, 1897 (60 & 61 Vict. c. 29).

Note.

Sub-s. (5).

This sub-section replaces some of the provisions of sect. 44 of the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), which empowered managers of school districts to borrow, and are repealed by the following sub-sect. (6) of this section. By the Poor Law Act, 1897 (60 & 61 Vict. c. 29), s. 2, this section is made to apply to the managers of the metropolitan asylums district, and to take the place of sect. 17 of the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), with the substitution of "one-tenth of the rateable value of the district" for "one-fourth" of the annual rateable value of the union.

The words in italics in this sub-section are repealed by the Poor Law Act, 1897 (60 & 61 Vict. c. 29).

Sub-s. (6).

Many of the enactments repealed by the general provision in this sub-section are repealed with express reference to the statutes containing them by the Poor Law Act, 1897 (60 & 61 Vict. c. 29), and will be found in the schedule to that Act. The following enactments are not expressly repealed by that Act, but are repealed by this sub-section: The Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 44 (in part), conferring borrowing powers on managers of school districts; the Poor Law Amendment Act, 1866 (29 & 30 Vict. c. 113), s. 8 (in part), limiting the amount of a loan to be raised for altering or enlarging a workhouse under 4 & 5 Will. 4, c. 76, s. 25; the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 14, which increased the limit of the amount to be raised for building workhouses under 4 & 5 Will. 4, c. 76, s. 24; the Poor Law Loans Act, 1871 (34 & 35 Vict. c. 11), s. 2, empowering guardians to borrow at a lower rate of interest for the purpose of paying off monies borrowed at a higher rate, the provisions of which section are now replaced by the Poor Law Act, 1897 (60 & 61 Vict. c. 29), s. 1 (4); the Poor Law Loans Act, 1872 (35 & 36 Vict. c. 2), s. 1, which increased the amount to be raised for building and furnishing district schools in the metropolis, and sect. 2, which applied the now repealed sect. 14 of the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), to the metropolis. The enactments which remain in force relative to borrowing powers of guardians, &c., are the Union Loans Act, 1869 (32 & 33 Vict. c. 45), s. 4, which makes monies borrowed by guardians to be a charge on the common fund of the union, and sect. 6, which

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section shall be made on the like security, *and be paid off in the like time and manner, and be borrowed and re-borrowed in the like manner* as is provided by the enactments in force at the passing of this Act with respect to loans of such guardians and managers.

III. * * * *

Reception of fever, small-pox and diphtheria patients into asylums in metropolitan district. 30 & 31 Vict. c. 6.

(4) After the date of an order of the Local Government Board authorizing the asylum managers to receive diphtheria patients into their hospitals, sub-section two of section sixty-nine of the Metropolitan Poor Act, 1867, shall apply as if diphtheria were therein mentioned as well as fever and small-pox.

Use of metropolitan asylums for medical instruction.

IV. The asylum managers may, if they think fit, allow the asylums provided by them for fever, small-pox, and diphtheria, to be used for purposes of medical instruction, subject to any rules and regulations which the Local Government Board may from time to time make with regard to such use of the said asylums.

Power to purchase land adjoining asylum.

V. The asylum managers shall have full power, with the consent of the Local Government Board, to purchase such land adjacent to an asylum provided by them as is required for the purposes of any such asylum; and for the purpose of such purchase sections one hundred and seventy-six and two hundred and ninety-six to two hundred and ninety-eight, both inclusive, of the Public Health Act, 1875, shall apply as if they were herein re-enacted, and in terms made applicable to the asylum managers and to the purposes of this section. 38 & 39 Vict. c. 55.

[Sect. 6. *Use of ambulances provided by asylum managers:* Repealed by the Public Health (London) Act, 1891, and re-enacted with some variations by sect. 79 (3) of that Act.]

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Sect. 2. Note. Sub-s. (6).

provides a form of security for loans by guardians; the Metropolitan Poor Amendment Act, 1869 (32 & 33 Vict. c. 63), s. 9, charging loans by the managers of the metropolitan asylums district upon the common fund. Other enactments on the subject, though not repealed, are now practically obsolete, as 1 & 2 Vict. c. 25, and sect. 4 of the Poor Law Loans Act, 1872 (35 & 36 Vict. c. 2).

Sect. 3. Note.

The first three sub-sections of this section are repealed by the Public Health (London) Act, 1891, and re-enacted, with some variations, by sect. 80 of that Act.

By the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), s. 69, expenses for certain purposes are to be repaid out of the common poor fund, and these purposes include the maintenance of patients in any asylum specially provided under that Act for patients suffering from fever or small-pox. An order of the Local Government Board authorizing the managers to receive diphtheria patients was made October 11th, 1889.

[Sect. 7. *Power to asylum managers to borrow for ambulance stations:* Repealed by the Public Health (London) Act, 1891, and replaced by sect. 104 (3) of that Act, and by the Poor Law Act, 1897 (60 & 61 Vict. c. 29), s. 2.] Sect. 7.

VIII. No consent other than that of the Local Government Board shall be required to the sale or exchange or letting by the board of guardians of any separate parish of any workhouse, tenements, buildings, or land belonging to such parish. Amendment of 5 & 6 Will. 4, c. 69, s. 3.

IX. The section of this Act relating to the control of the guardians of a union over a child deserted by its parents, but no other section shall apply to Ireland, and in such application of the said section to Ireland,— Application to Ireland.

(*a.*) The word "guardians" means the board of guardians of the poor for a union, under the provisions of the Act of the session of the first and second years of the reign of Her present Majesty, chapter fifty-six, intituled "An Act for the more effectual Relief of the destitute Poor in Ireland," and the Acts amending the same: 1 & 2 Vict. c. 56.

The word "union" means a union for the relief of the destitute poor under the provisions of the said Acts;

(*b.*) A court of summary jurisdiction shall be constituted of two or more justices of the peace in petty sessions, sitting at a place appointed for holding petty sessions, or of some magistrate or officer for the time being empowered by law to do alone any act authorized to be done by more than one justice of the peace, and sitting at some court or other place appointed for the administration of justice.

X. This Act may be cited as the Poor Law Act, 1889. Short title and construction.

Expressions in this Act when used with reference to England shall have the same meaning as in the Poor Law Act, 1879. 42 & 43 Vict. c. 54.

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Sect. 8. Note.

The consent of a majority of ratepayers and owners was required by the Union and Parish Property Act, 1835 (5 & 6 Will. 4, c. 69), s. 3.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 6 (1) (*d*), the powers exercisable with the approval of the Local Government Board by the board of guardians for a poor law union containing a rural parish in respect of the sale, exchange or letting of any parish property are transferred to the parish council; but such transfer of powers cannot affect the board of guardians of a separate parish.

Schedule.

## SCHEDULE.

*Acts relating to England.*

| Session and Chapter. | Title or Short Title. | Enactments referred to. |
|---|---|---|
| 4 & 5 Will. 4, c. 76 | Poor Law Amendment Act, 1834. | Section nineteen. |
| 25 & 26 Vict. c. 43. | An Act to provide for the education and maintenance of pauper children in certain schools and institutions. | Section nine. |
| 29 & 30 Vict. c. 113 | Poor Law Amendment Act of 1866. | Section fourteen. |
| 31 & 32 Vict. c. 122 | Poor Law Amendment Act, 1868. | Sections sixteen to twenty-three, both inclusive. |

*Acts relating to Ireland.*

| Session and Chapter. | Title or Short Title. | Section referred to. |
|---|---|---|
| 1 & 2 Vict. c. 56 . | An Act for the more effectual relief of the destitute poor in Ireland. | Section forty-nine. |
| 25 & 26 Vict. c. 83. | An Act to amend the laws in force for the relief of the destitute poor in Ireland, and to continue the powers of the Commissioners. | Sections eight and eleven. |
| 39 & 40 Vict. c. 38. | An Act to extend the limits of age up to which, with the assent of boards of guardians, orphans and deserted pauper children may be supported out of workhouses in Ireland. | Section two. |

# THE INTERPRETATION ACT, 1889.

52 & 53 VICT. CHAP. 63.

An Act for consolidating enactments relating to the Construction of Acts of Parliament and for further shortening the Language used in Acts of Parliament.

[30th August, 1889.]

[Only those sections of this Act are printed here which may have reference to matters specially connected with the statutes collected in this work.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

* * * * *

*Re-enactment of Existing Rules.*

Meaning of "county" in past Acts.

IV. In every Act passed after the year one thousand eight hundred and fifty and before the commencement of this Act the expression "county" shall, unless the contrary intention appears, be construed as including a county of a city and a county of a town.

Meaning of "parish."

V. In every Act passed after the year one thousand eight hundred and sixty-six, whether before or after the commencement of this Act, the expression "parish" shall, unless the contrary intention appears, mean, as respects England and Wales, a place for which a separate poor rate is or can be made, or for which a separate overseer is or can be appointed.

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*New General Rules of Construction.*

Official definitions in past and future Acts.

XII. In this Act and in every other Act whether passed before or after the commencement of this Act, the following expressions shall, unless the contrary intention appears, have the meanings hereby respectively assigned to them, namely:—

(1) The expression "Lord Chancellor" shall, except when used with reference to Ireland only, mean the Lord High

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Sect. 4. Note. The date 1850 is fixed by reason of the passing of Lord Brougham's Act (13 & 14 Vict. c. 21), in that year.

Sect. 5. Note. The date 1866 is fixed by reason of the passing of the Poor Law Amendment Act, 1866 (29 & 30 Vict. c. 113), in that year, containing in sect. 18 the definition of "parish," which is that adopted in this Act. Up till that date the definition of "parish" commonly used in poor law statutes was contained in the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 109.

Sect. 12.

Chancellor of Great Britain for the time being, and when used with reference to Ireland only, shall mean the Lord Chancellor of Ireland for the time being.

(2) The expression "the Treasury" shall mean the Lord High Treasurer for the time being or the Commissioners for the time being of Her Majesty's Treasury.

(3) The expression "Secretary of State" shall mean one of Her Majesty's principal Secretaries of State for the time being.

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(5) The expression "the Privy Council" shall, except when used with reference to Ireland only, mean the Lords and others for the time being of Her Majesty's most Honourable Privy Council, and when used with reference to Ireland only, shall mean the Privy Council of Ireland for the time being.

(6) The expression "the Education Department" shall mean the Lords of the Committee for the time being of the Privy Council appointed for Education.

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(14) The expression "Charity Commissioners" shall mean the Charity Commissioners for England and Wales for the time being.

(15) The expression "Ecclesiastical Commissioners" shall mean the Ecclesiastical Commissioners for England for the time being.

(16) The expression "Queen Anne's Bounty" shall mean the Governors of the Bounty of Queen Anne for the augmentation of the maintenance of the poor clergy.

(17) The expression "National Debt Commissioners" shall mean the Commissioners for the time being for the Reduction of the National Debt.

(18) The expression "the Bank of England" shall mean, as circumstances require, the Governor and Company of the Bank of England or the bank of the Governor and Company of the Bank of England.

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Judicial definitions in past and future Acts.

XIII. In this Act and in every other Act whether passed before or after the commencement of this Act, the following expressions shall, unless the contrary intention appears, have the meanings hereby respectively assigned to them, namely:—

(1) The expression "Supreme Court," when used with reference to England or Ireland, shall mean the Supreme Court of Judicature in England or Ireland, as the case may be, or either branch thereof.

(2) The expression "Court of Appeal," when used with reference to England or Ireland, shall mean Her Majesty's Court of Appeal in England or Ireland, as the case may be.

Sect. 13.

(3) The expression "High Court," when used with reference to England or Ireland, shall mean Her Majesty's High Court of Justice in England or Ireland, as the case may be.

(4) The expression "court of assize" shall, as respects England, Wales, and Ireland, mean a court of assize, a court of oyer and terminer, and a court of gaol delivery, or any of them, and shall, as respects England and Wales, include the Central Criminal Court.

(5) The expression "assizes," as respects England, Wales, and Ireland, shall mean the courts of assize usually held in every year, and shall include the sessions of the Central Criminal Court, but shall not include any court of assize held by virtue of any special commission, or, as respects Ireland, any court held by virtue of the powers conferred by section sixty-three of the Supreme Court of Judicature Act (Ireland) 1877. 40 & 41 Vict. c. 57.

(6) The expression "the Summary Jurisdiction Act, 1848," shall mean the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to facilitate the performance of the Duties of Justices of the Peace out of sessions within England and Wales with respect to summary convictions and orders."

(7) The expression "the Summary Jurisdiction (England) Acts" and the expression "the Summary Jurisdiction (English) Acts" shall respectively mean the Summary Jurisdiction Act, 1848, and the Summary Jurisdiction Act, 1879, and any Act, past or future, amending those Acts or either of them. 11 & 12 Vict. c. 43. 42 & 43 Vict. c. 49.

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(10) The expression "the Summary Jurisdiction Acts" when used in relation to England or Wales shall mean the Summary Jurisdiction (England) Acts, and when used in relation to Scotland the Summary Jurisdiction (Scotland) Acts, and when used in relation to Ireland the Summary Jurisdiction (Ireland) Acts.

(11) The expression "court of summary jurisdiction" shall mean any justice or justices of the peace, or other magistrate, by whatever name called, to whom jurisdiction is given by, or who is authorized to act under, the Summary Jurisdiction Acts, whether in England, Wales, or Ireland, and whether acting under the Summary Jurisdiction Acts or any of them, or under any other Act, or by virtue of his commission, or under the common law.

(12) The expression "petty sessional court" shall, as respects England or Wales, mean a court of summary jurisdiction consisting of two or more justices when sitting in a petty

Sect. 13.

This sub-section repeals and replaces sect. 7 of the S. J. Act, 1884 (47 & 48 Vict. c. 43). As to the effect of the interpretation here prescribed, see *Reg.* v. *Glamorganshire JJ.*, [1892] 1 Q. B. 621.

Note. Sub-s. (11).

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sessional court-house, and shall include the Lord Mayor of the city of London, and any alderman of that city, and any metropolitan or borough police magistrate or other stipendiary magistrate when sitting in a court-house or place at which he is authorized by law to do alone any act authorized to be done by more than one justice of the peace.

(13) The expression "petty sessional court-house" shall, as respects England or Wales, mean a court-house or other place at which justices are accustomed to assemble for holding special or petty sessions, or which is for the time being appointed as a substitute for such a court-house or place, and where the justices are accustomed to assemble for either special or petty sessions at more than one court-house or place in a petty sessional division, shall mean any such court-house or place. The expression shall also include any court-house or place at which the Lord Mayor of the city of London or any alderman of that city, or any metropolitan or borough police magistrate or other stipendiary magistrate is authorized by law to do alone any act authorized to be done by more than one justice of the peace.

(14) The expression "court of quarter sessions" shall mean the justices of any county, riding, parts, division, or liberty of a county, or of any county of a city, or county of a town, in general or quarter sessions assembled, and shall include the court of the recorder of a municipal borough having a separate court of quarter sessions.

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Meaning of borough.

XV. In this Act and in every Act passed after the commencement of this Act the following expressions shall, unless the contrary intention appears, have the meanings hereby respectively assigned to them, namely:—

(1) The expression "municipal borough" shall mean, as respects England and Wales, any place for the time being subject to the Municipal Corporations Act, 1882, and any reference to the mayor, aldermen, and burgesses of a borough shall include a reference to the mayor, aldermen, and citizens of a city, and any reference to the powers, duties, liabilities or property of the council of a borough shall be construed as a reference to the powers, duties, liabilities, or property of the mayor, aldermen, and burgesses of the borough acting by the council.

45 & 46 Vict. c. 50.

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(3) The expression "Parliamentary borough" shall mean any borough, burgh, place or combination of places returning

Sect. 13.

Note. Sub-ss. (12) & (13).

The definitions in these sub-sections take the place of the definitions in sub-sects. (6) and (3) respectively of sect. 20 of the S. J. Act, 1884 (47 & 48 Vict. c. 43).

a member or members to serve in Parliament, and not being either a county or division of a county, or a university, or a combination of universities. Sect. 15.

(4) The expression "borough" when used in relation to local government shall mean a municipal borough as above defined, and when used in relation to Parliamentary elections or the registration of Parliamentary electors shall mean a Parliamentary borough as above defined.

Meaning of guardians and union.

XVI. In this Act and in every Act passed after the commencement of this Act the following expressions shall, unless the contrary intention appears, have the meanings hereby respectively assigned to them, namely:—

(1) The expression "board of guardians" shall, as respects England and Wales, mean a board of guardians elected under the Poor Law Amendment Act, 1834, and the Acts amending the same, and shall include a board of guardians or other body of persons performing under any local Act the like functions to a board of guardians under the Poor Law Amendment Act, 1834. 4 & 5 Will. 4, c. 76.

(2) The expression "poor law union" shall, as respects England and Wales, mean any parish or union of parishes for which there is a separate board of guardians.

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Definitions relating to elections.

XVII. In every Act passed after the commencement of this Act the following expressions shall, unless the contrary intention appears, have the meanings hereby respectively assigned to them, namely:—

(1) The expression "Parliamentary election" shall mean the election of a member or members to serve in Parliament for a county or division of a county, or Parliamentary borough or division of a Parliamentary borough, or for a university or combination of universities.

(2) The expression "Parliamentary register of electors" shall mean a register of persons entitled to vote at any Parliamentary election.

(3) The expression "local government register of electors" shall mean, as respects an administrative county in England or Wales other than a county borough, the county register, and as respects a county borough or other municipal borough, the burgess roll.

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Meaning of "financial year" in future Acts.

XXII. In this Act and in every Act passed after the commencement of this Act the expression "financial year" shall, Sect. 16.

In Acts before this Act the expressions "guardians" and "union" had generally the meanings attached to them by the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 109.

Note. Sub-s. (2).

Sect. 22.

unless the contrary intention appears, mean, as respects any matters relating to the Consolidated Fund or monies provided by Parliament, or to the Exchequer, or to Imperial taxes or finance, the twelve months ending the thirty-first day of March.

Definition of Lands Clauses Acts.

XXIII. In any Act passed after the commencement of this Act, unless the contrary intention appears,—

The expression "Lands Clauses Acts" shall mean—

8 & 9 Vict. c. 18.
23 & 24 Vict. c. 106.
32 & 33 Vict. c. 18.
46 & 47 Vict. c. 15.

(*a.*) As respects England and Wales, the Lands Clauses Consolidation Act, 1845, the Lands Clauses Consolidation Acts Amendment Act, 1860, the Lands Clauses Consolidation Act, 1869, and the Lands Clauses (Umpire) Act, 1883, and any Acts for the time being in force amending the same.

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Meaning of service by post.

XXVI. Where an Act passed after the commencement of this Act authorizes or requires any document to be served by post, whether the expression "serve," or the expression "give" or "send," or any other expression is used, then, unless the contrary intention appears, the service shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the document, and unless the contrary is proved to have been effected at the time at which the letter would be delivered in the ordinary course of post.

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# THE PUBLIC BODIES CORRUPT PRACTICES ACT, 1889.

52 & 53 VICT. CHAP. 69.

An Act for the more effectual Prevention and Punishment of Bribery and Corruption of and by Members, Officers, or Servants of Corporations, Councils, Boards, Commissions, or other Public Bodies. [30th August, 1889.]

WHEREAS it is expedient more effectually to provide for the prevention and punishment of bribery and corruption of and by members, officers, or servants of corporations, councils, boards, commissions, and other public bodies:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Sect. 1.

Corruption in office a misdemeanour.

I.—(1) Every person who shall by himself or by or in conjunction with any other person, corruptly solicit or receive, or agree to receive, for himself, or for any other person, any gift, loan, fee, reward, or advantage whatever as an inducement to, or reward for, or otherwise on account of any member, officer, or servant of a public body as in this Act defined, doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which the said public body is concerned, shall be guilty of a misdemeanour.

(2) Every person who shall by himself or by or in conjunction with any other person corruptly give, promise, or offer any gift, loan, fee, reward, or advantage whatsoever to any person, whether for the benefit of that person or of another person, as an inducement to or reward for or otherwise on account of any member, officer, or servant of any public body as in this Act defined, doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which such public body as aforesaid is concerned, shall be guilty of a misdemeanour.

Penalty for offences.

II. Any person on conviction for offending as aforesaid shall, at the discretion of the court before which he is convicted,—

(*a.*) Be liable to be imprisoned for any period not exceeding two years, with or without hard labour, or to pay a fine not exceeding five hundred pounds, or to both such imprisonment and such fine ; and

(*b.*) In addition be liable to be ordered to pay such body, and in such manner as the court directs, the amount or value of any gift, loan, fee, or reward received by him or any part thereof; and

(*c.*) Be liable to be adjudged incapable of being elected or appointed to any public office for seven years from the date of his conviction, and to forfeit any such office held by him at the time of his conviction ; and

(*d.*) In the event of a second conviction for a like offence he shall, in addition to the foregoing penalties, be liable

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Sect. 1. Note. Sub-s. (1).

It is not necessary on the indictment for an offence under this sub-section, to prove that the accused at the time of the commission of the alleged offence was himself a member, officer, or servant of a public body as defined by this Act. If the accused, whether a member, officer, or servant of a public body or not, tries to obtain a sum of money on the pretext that he would either himself forbear, or induce someone else to forbear doing the act alleged in the indictment, he is guilty of a misdemeanour (*Reg.* v. *Edwards*, 59 J. P. 88).

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Sect. 2. Note.

The enactments referred to in sub-sect. (*d*) of this section "for preventing the voting and registration of persons declared by reason

Sect. 2.

to be adjudged to be for ever incapable of holding any public office, and to be incapable for seven years of being registered as an elector, or voting at an election either of members to serve in Parliament or of members of any public body, and the enactments for preventing the voting and registration of persons declared by reason of corrupt practices to be incapable of voting shall apply to a person adjudged in pursuance of this section to be incapable of voting; and

(*e.*) If such person is an officer or servant in the employ of any public body upon such conviction he shall, at the discretion of the court, be liable to forfeit his right and claim to any compensation or pension to which he would otherwise have been entitled.

Savings.

III.—(1) Where an offence under this Act is also punishable under any other enactment, or at common law, such offence may be prosecuted and punished either under this Act, or under the other enactment, or at common law, but so that no person shall be punished twice for the same offence.

(2) A person shall not be exempt from punishment under this Act by reason of invalidity of the appointment or election of a person to a public office.

Restriction on prosecution.

IV.—(1) A prosecution for an offence under this Act shall not be instituted except by or with the consent of the Attorney-General.

(2) In this section the expression "Attorney-General" means the Attorney or Solicitor-General for England, and as respects Scotland means the Lord Advocate, and as respects Ireland means the Attorney or Solicitor-General for Ireland.

Expenses of prosecution.

V. The expenses of the prosecution of an offence against this Act shall be defrayed in like manner as in the case of a felony.

Sect. 2. Note.

of corrupt practices to be incapable of voting," are the Corrupt and Illegal Practices Prevention Act, 1883 (46 & 47 Vict. c. 51), ss. 36—39; the Corrupt and Illegal Practices Prevention Act, 1895 (58 & 59 Vict. c. 40), s. 1; and the Municipal Elections (Corrupt Practices) Act, 1884 (47 & 48 Vict. c. 70), ss. 22—24.

Sect. 4. Note.

The Attorney-General has an entire discretion whether to give or refuse his consent. (See *Ex parte Hurter*, 47 J. P. 724; 15 Cox, C. C. 166.)

Sect. 5. Note.

Payment of the expenses of the prosecutor and the witnesses for the prosecution in cases of felony is provided by the Criminal Law Act, 1826 (7 Geo. 4, c. 64), ss. 22, 25; and the Prosecutions Expenses Act, 1866 (29 & 30 Vict. c. 52), s. 1. These provisions of the above-mentioned Acts were extended to the payment of the expenses of witnesses for the defence who were bound over to appear at the trial by the Criminal Law Amendment Act, 1867 (30 & 31 Vict. c. 35).

Sect. 6.

VI. A court of general or quarter sessions shall in England have jurisdiction to inquire of, hear, and determine an offence under this Act.

Jurisdiction of quarter sessions.

VII. In this Act—

Interpretation.

The expression "public body" means any council of a county or county of a city or town, any council of a municipal borough, also any board, commissioners, select vestry, or other body which has power to act under and for the purposes of any Act relating to local government, or the public health, or to poor law, or otherwise to administer money raised by rates in pursuance of any public general Act, but does not include any public body as above defined existing elsewhere than in the United Kingdom:—

The expression "public office" means any office or employment of a person as a member, officer, or servant of such public body:

The expression "person" includes a body of persons, corporate or unincorporate:

The expression "advantage" includes any office or dignity, and any forbearance to demand any money or money's worth or valuable thing, and includes any aid, vote, consent, or influence, or pretended aid, vote, consent, or influence, and also includes any promise or procurement of or agreement or endeavour to procure, or the holding out of any expectation of any gift, loan, fee, reward, or advantage, as before defined.

[Sect. 8. Application of Act to Scotland.]

[Sect. 9. Application of Act to Ireland.]

X. This Act may be cited as the Public Bodies Corrupt Practices Act, 1889.

Short title.

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# THE INFECTIOUS DISEASE (NOTIFICATION) ACT, 1889.

52 & 53 VICT. CHAP. 72.

An Act to provide for the Notification of Infectious Disease to Local Authorities. [30th August, 1889.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and

temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

[This Act only affects poor law authorities in that the expenses of the Act incurred by rural councils are by sect. 9 made "general expenses" and therefore are payable out of the poor rates. The interpretation clause of the Act is, however, adopted in the Infectious Disease (Prevention) Act, 1890 (53 & 54 Vict. c. 34), *post.*]

Sect. 1.

Short title.

I. This Act may be cited as the Infectious Disease (Notification) Act, 1889.

Extent of Act.

II. This Act shall extend—

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(*b.*) To any urban, rural, or port sanitary district after the adoption thereof.

Notification of infectious disease.

III.—(1) Where an inmate of any building used for human habitation within a district to which this Act extends is suffering from an infectious disease to which this Act applies, then, unless such building is a hospital in which persons suffering from an infectious disease are received, the following provisions shall have effect, that is to say:—

(*a.*) The head of the family to which such inmate (in this Act referred to as the patient) belongs, and in his default the nearest relatives of the patient present in the building or being in attendance on the patient, and in default of such relatives every person in charge of or in attendance on the patient, and in default of any such person the occupier of the building shall, as soon as he becomes aware that the patient is suffering from an infectious disease to which this Act applies, send notice thereof to the medical officer of health of the district:

(*b.*) Every medical practitioner attending on or called in to visit the patient shall forthwith, on becoming aware that the patient is suffering from an infectious disease to which this Act applies, send to the medical officer of health for the district a certificate stating the name of the patient, the situation of the building, and the infectious disease from which, in the opinion of such medical practitioner, the patient is suffering.

(2) Every person required by this section to give a notice or certificate who fails to give the same, shall be liable on summary conviction in manner provided by the Summary Jurisdiction Acts to a fine not exceeding forty shillings;

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Sect. 2.

Note.

Sub-par (*a*) of this section extending the Act to London districts is repealed by the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76).

Sect. 3.

Provided that if a person is not required to give notice in the first instance, but only in default of some other person, he shall not be liable to any fine if he satisfies the court that he had reasonable cause to suppose that the notice had been duly given.

As to forms and case of several medical practitioners.

IV.—(1) The Local Government Board may from time to time prescribe forms for the purpose of certificates under this Act, and any forms so prescribed shall be used in all cases to which they apply.

(2) The local authority shall gratuitously supply forms of certificate to any medical practitioner residing or practising in their district who applies for the same, and shall pay to every medical practitioner for each certificate duly sent by him in accordance with this Act a fee of two shillings and sixpence if the case occurs in his private practice, and of one shilling if the case occurs in his practice as medical officer of any public body or institution.

(3) Where in any district of a local authority there are two or more medical officers of health of such authority a certificate under this Act shall be given to such one of those officers as has charge of the area in which is the patient referred to in the certificate, or to such other of those officers as the local authority may from time to time direct.

Adoption of Act in urban or rural district.

V.—(1) The local authority of any urban, rural, or port sanitary district may adopt this Act by a resolution passed at a meeting of such authority; and fourteen clear days at least before such meeting special notice of the meeting, and of the intention to propose such resolution, shall be given to every member of the local authority, and the notice shall be deemed to have been duly given to a member if it is either:

(*a.*) Given in the mode in which notices to attend meetings of the local authority are usually given, or

(*b.*) Where there is no such mode, then signed by the clerk of the local authority and delivered to the member or left at his usual or last known place of abode in England, or forwarded by post in a prepaid letter addressed to the member at his usual or last known place of abode in England.

(2) A resolution adopting this Act shall be published by advertisement in a local newspaper, and by handbills, and otherwise in such manner as the local authority think sufficient for giving notice thereof to all persons interested, and shall come into operation at such time, not less than one month after the first publication of the advertisement of the resolution as the local authority may fix, and upon its coming into operation this Act shall extend to the district.

(3) A copy of the resolution shall be sent to the Local Government Board when it is published.

Sect. 6.

Definition of infectious disease.

VI. In this Act the expression "infectious disease to which this Act applies" means any of the following diseases, namely, small-pox, cholera, diphtheria, membranous croup, erysipelas, the disease known as scarlatina or scarlet fever, and the fevers known by any of the following names, typhus, typhoid, enteric, relapsing, continued, or puerperal, and includes as respects any particular district any infectious disease to which this Act has been applied by the local authority of the district in manner provided by this Act.

Power to local authority to extend definition of infectious disease.

VII.—(1) The local authority of any district to which this Act extends may, from time to time, by a resolution passed at a meeting of such authority where the like special notice of the meeting and of the intention to propose the resolution has been given as is required in the case of a meeting held for adopting this Act, order that this Act shall apply in their district to any infectious disease other than a disease specifically mentioned in this Act.

(2) Any such order may be permanent or temporary, and, if temporary, the period during which it is to continue in force shall be specified therein, and any such order may be revoked or varied by the local authority which made the same.

(3) An order under this section and the revocation and variation of any such order shall not be of any validity until approved by the Local Government Board.

(4) When it is so approved, the local authority shall give public notice thereof by advertisement in a local newspaper and by handbills, and otherwise in such manner as the local authority think sufficient for giving information to all persons interested. They shall also send a copy thereof to each registered medical practitioner whom, after due inquiry, they ascertain to be residing or practising in their district.

(5) The said order shall come into operation at such date not earlier than one week after the publication of the first advertisement of the approved order as the local authority may fix, and upon such order coming into operation, and during the continuance thereof, an infectious disease mentioned in such order shall, within the district of the authority, be an infectious disease to which this Act applies.

(6) In the case of emergency three clear days' notice under this section shall be sufficient, and the resolution shall declare the cause of such emergency and shall be for a temporary order, and a copy thereof shall be forthwith sent to the Local Government Board and advertised, and the order shall come into operation at the expiration of one week from the date of such advertisement, but unless approved by the Local Government Board shall cease to be in force at the expiration of one month after it is passed, or any earlier date fixed by the Local Government Board.

(7) The approval of the Local Government Board shall be conclusive evidence that the case was one of emergency. Sect. 7.

VIII.—(1) A notice or certificate for the purposes of this Act shall be in writing or print, or partly in writing and partly in print; and for the purposes of this Act the expression "print" includes any mechanical mode of reproducing words. Notices and certificates.

(2) A notice or certificate to be sent to a medical officer of health in pursuance of this Act may be sent by being delivered to the officer or being left at his office or residence, or may be sent by post addressed to him at his office or at his residence.

IX. Any expenses incurred by a local authority in the execution of this Act shall be paid as part of the expenses of such authority in the execution of the Acts relating to public health and in the case of a rural authority shall be general expenses. Expenses.

[Sect. 10. *Repayment of expenses in London as expenses of managers of asylum district:* Repealed by the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 142, and replaced by sect. 55 (4) of that Act.]

XI. A payment made to any medical practitioner in pursuance of this Act shall not disqualify that practitioner for serving as member of the council of any county or borough, or as member of a sanitary authority, or as guardian of a union, or in any municipal or parochial office. Non-disqualification of medical officer by receipt of fees.

Where a medical practitioner attending on a patient is himself the medical officer of health of the district, he shall be entitled to the fee to which he would be entitled if he were not such medical officer.

[Sect. 12. *Application of Act to Woolwich:* Repealed by the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 142.]

XIII.—(1) The provisions of this Act shall apply to every ship, vessel, boat, tent, van, shed, or similar structure used for human habitation, in like manner as nearly as may be as if it were a building. Application of Act to vessels, tents, &c.

(2) A ship, vessel, or boat, lying in any river, harbour, or other water not within the district of any local authority within the meaning of this Act, shall be deemed for the purposes of this Act to be within the district of such local authority as may be fixed by the Local Government Board, and where no local authority has been fixed, then of the local authority of the district which nearest adjoins the place where such ship, vessel, or boat is lying.

(3) This section shall not apply to any ship, vessel, or boat belonging to any foreign government.

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By the Public Health Act, 1875 (38 & 39 Vict. c. 55), s. 229, the general expenses of a rural authority are paid out of the poor rates. Sect. 9. Note.

Sect. 14.

Saving for local Act.

XIV. Where this Act is put in force in any district in which there is a local Act for the like purpose as this Act, the enactments of such local Act, so far as they relate to that purpose, shall cease to be in operation.

Exemption of Crown buildings.

XV. Nothing in this Act shall extend to any building, ship, vessel, boat, tent, van, shed, or similar structure belonging to Her Majesty the Queen, or to any inmate thereof.

Definitions.

XVI. In this Act—

The expression "local authority" means each of the following authorities; that is to say,—

* * * * *

(*c.*) An urban or rural sanitary authority in England within the meaning of the Public Health Acts; and

(*d.*) The port sanitary authority of any port sanitary district in England.

* * * * *

The expression "urban or rural district" means the district for which any such urban or rural sanitary authority is elected:

The expression "port sanitary district" means the port sanitary district of London and any port or part of a port for which a port sanitary authority has been constituted under the Public Health Acts, and any such port sanitary district shall form no part, for the purposes of this Act, of any urban or rural district:

The expression "occupier" includes a person having the charge, management, or control of a building, or of the part of a building in which the patient is, and in the case of a house the whole of which is let out in separate tenements, or in the case of a lodging-house the whole of which is let to lodgers, the person receiving the rent payable by the tenants or lodgers either as his own account or as the agent of another person, and in the case of a ship, vessel, or boat, the master or other person in charge thereof.

[Sect. 17. Application of Act to Scotland.]

[Sect. 18. Application of Act to Ireland.]

# THE LUNACY ACT, 1890.

## 53 & 54 VICT. CHAP. 5.

An Act to consolidate certain of the Enactments respecting Lunatics. [29th March, 1890.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

*Preliminary.*

Sect. 1.

I. This Act may be cited as the Lunacy Act, 1890. Short title.

II. Save as in this Act otherwise expressly provided, this Act shall not extend to Scotland or Ireland. Extent of Act.

III. This Act shall come into operation, save as in this Act otherwise expressly provided, on the first day of May one thousand eight hundred and ninety. Commencement.

### PART I.

### RECEPTION OF LUNATICS.

*Reception Orders on Petition.*

IV.—(1) Subject to the exceptions in this Act mentioned, a person, not being a pauper or a lunatic so found by inquisition, shall not be received and detained as a lunatic in an institution for lunatics, or as a single patient, unless under a reception order made by the judicial authority herein-after mentioned. A relative of the person applying for an order under this section or of the lunatic, or of the husband or wife of the lunatic, shall not be capable of making such order. Private patients not found lunatic by inquisition to be received only under order of judicial authority.

(2) The order shall be obtained upon a private application by petition accompanied by a statement of particulars and by two medical certificates on separate sheets of paper. Forms 1, 2, 8.

V.—(1) The petition shall be presented, if possible, by the husband or wife or by a relative of the alleged lunatic. If not so presented it shall contain a statement of the reasons why the petition is not so presented and of the connexion of the petitioner with the alleged lunatic, and the circumstances under which he presents the petition. Petition for reception order. Form 1.

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As to Scotland and Ireland, see sects. 86—89, 107, 131.

Sect. 2. Note.

Sect. 5.

(2) No person shall present a petition unless he is at least twenty-one years of age and has within fourteen days before the presentation of the petition personally seen the alleged lunatic.

(3) The petitioner shall in the petition undertake that he will personally, or by someone specially appointed by him, visit the patient once at least in every six months; and the undertaking shall be recited in the order.

(4) The petition shall be signed by the petitioner and the statement of particulars by the person making the statement.

Form 2.

Procedure upon petition for a reception order.

Form 3.

VI.—(1) Upon the presentation of the petition the judicial authority shall consider the allegations in the petition and statement of particulars and the evidence of lunacy appearing by the medical certificates, and whether it is necessary for him personally to see and examine the alleged lunatic; and, if he is satisfied that an order may properly be made forthwith, he may make the same accordingly; or, if not so satisfied, he shall appoint as early a time as practicable, not being more than seven days after the presentation of the petition, for the consideration thereof; and he may make such further or other inquiries of or concerning the alleged lunatic as he may think fit. Notice of the time and place appointed for the consideration of the petition (unless personally given to the petitioner) shall be sent to the petitioner by post in a prepaid registered letter addressed to him at his address as given in the petition.

(2) The judicial authority, if not satisfied with the evidence of lunacy appearing by the medical certificates, may, if he thinks it necessary so to do, visit the alleged lunatic at the place where he may happen to be.

(3) The petition shall be considered in private, and no one except the petitioner, the alleged lunatic (unless the judicial authority shall in his discretion otherwise order), any one person appointed by the alleged lunatic for that purpose, and the persons signing the medical certificates accompanying the petition, shall, without the leave of the judicial authority, be present at the consideration thereof.

(4) At the time appointed for consideration of the petition the judicial authority may make an order thereon or dismiss the same, or, if he thinks fit, may adjourn the same for any period not exceeding fourteen days for further evidence or information, and he may give notice to such persons as he thinks fit of the adjourned consideration, and summon any persons to attend before him.

(5) Every judicial authority and all persons admitted to be present at the consideration of any petition for a reception order, or otherwise having official cognizance of the fact that a petition has been presented, except the alleged lunatic and the person appointed by the alleged lunatic as aforesaid, shall be

bound to keep secret all matters and documents which may come to his or their knowledge by reason thereof, except when required to divulge the same by lawful authority.

Dismissal of petition.

VII.—(1) If the petition is dismissed, the judicial authority shall deliver to the petitioner a statement in writing under his hand of his reasons for dismissing the same, and shall send a copy of such statement to the commissioners, and shall also, where the alleged lunatic is detained under an urgency order, send notice by post or otherwise to the person in whose charge the alleged lunatic is, that the petition has been dismissed.

(2) Any judicial authority making or refusing a reception order, shall, if so required by the commissioners, give to them all such information as they may require as to the circumstances under which the order was made or refused.

(3) The commissioners may communicate such information as they think proper, on the dismissal of the petition or the release of the alleged lunatic, to him or to any person who may satisfy them that he is a proper person to receive the information.

(4) If after a petition has been dismissed another petition is presented as to the same alleged lunatic, the person presenting such other petition, so far as he has any knowledge or information with regard to the previous petition and its dismissal, shall state the facts relating thereto in his petition, and shall obtain from the commissioners at his own expense, and present with his petition, a copy of the statement sent to them of the reasons for dismissing the previous petition, and, if he wilfully omits to comply with this sub-section, he shall be guilty of a misdemeanour.

Right of lunatic to be examined by judicial authority.

VIII.—(1) When a lunatic has been received as a private patient under an order of a judicial authority, without a statement in the order that the patient has been personally seen by such judicial authority, the patient shall have the right to be taken before or visited by a judicial authority, other than the judicial authority who made the order, unless the medical officer of the institution, or, in the case of a single patient, his medical attendant, within twenty-four hours after reception, in a certificate signed and sent to the commissioners, states that the exercise of such right would be prejudicial to the patient. Form 5.

(2) Where no such certificate has been signed and sent, the manager of the institution in which the patient is, or the person having charge of him as a single patient, shall, within twenty-four hours after reception, give to the patient a notice in writing of his right under this section, and shall ascertain whether he desires to exercise the right; and if he, within seven days after his reception, expresses his desire to exercise Form 6.

Sect. 8.

Form 7.

the right, such manager or person shall procure him to sign a notice of such desire, and shall forthwith transmit it by post in a prepaid registered letter to the judicial authority, who is to exercise the jurisdiction under this section, or to the justices' clerk of the petty sessional division or borough, where the lunatic is, to be by him transmitted to such judicial authority, and the judicial authority shall thereupon arrange, as soon as conveniently may be, either to visit the patient or to have the patient brought before him by the manager or person as the judicial authority may think fit.

(3) The judicial authority shall be entitled, if he desires so to do, to see the medical certificates and any other documents, upon the consideration of which the reception order was made, and shall after personally seeing the patient send to the commissioners a report, and the commissioners shall take such steps as may be necessary to give effect to the report.

(4) For the purposes of this section the jurisdiction shall be exercised by any judicial authority having authority to act in the place where the person received is, and not being the judicial authority who made the reception order; and arrangements shall for that purpose from time to time be made amongst themselves by the persons having such authority as aforesaid.

(5) If any manager of an institution for lunatics, or any person having charge of a single patient, omits to perform any duty imposed upon him by this section, he shall be guilty of a misdemeanour.

*The Judicial Authority defined.*

Judicial authority defined.

IX.—(1) The powers of the judicial authority under this Act shall be exercised by a justice of the peace specially appointed as herein-after provided, or a judge of county courts, or magistrate [*having respectively jurisdiction in the place where the lunatic is*].

(2) Every judicial authority shall, in the exercise of the jurisdiction conferred by this Act, have the same jurisdiction and power as regards the summoning and examination of witnesses, the administration of oaths, and otherwise, as if he were acting in the exercise of his ordinary jurisdiction, and shall be assisted, if he so requires, by the same officers as if he were so acting, and their assistance under this Act shall be considered in fixing their remuneration.

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Sect. 9.

Note.

Sub-s. (1).

The words in italics are repealed by the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 29.

Justices may be specially appointed under sect. 10, *infra*, to exercise the powers of the judicial authority.

(3) A judge of county courts and magistrate shall not be required to exercise any powers under this Act so as to interfere with or delay the exercise of his ordinary jurisdiction. Sect. 9.

X.—(1) The justices of every county and quarter sessions borough shall annually appoint out of their own body as many fit and proper persons as they may deem necessary to exercise [*within the county and borough respectively,*] the powers conferred by this Act upon the judicial authority. In making such appointments the justices of every county shall have regard to the convenience of the inhabitants of each petty sessional division thereof. Appointment of justices to make reception orders.

(2) The annual appointments under this section shall be made by justices of a county at their Michaelmas quarter sessions, and by justices of a borough at special sessions to be held in the month of October.

(3) If in any year such appointments are not made, it shall be lawful for the Lord Chancellor, by writing under his hand, to make the same; and if, on any representation made to him that the number of justices so appointed for any county or borough is at any time insufficient, the Lord Chancellor is satisfied that such representation is well founded, he shall have power to appoint, by writing under his hand, any other justices of such county or borough to act, until the next Michaelmas quarter or special sessions, with the justices so appointed.

(4) If in the case of a borough or place not having a separate quarter sessions, representation is made to the Lord Chancellor that public inconvenience is likely to result, unless power is given to the justices of such borough or place to exercise [*within the same*] the powers conferred by this Act upon the judicial authority, it shall be lawful for the Lord Chancellor, from time to time, with or without a fresh representation, to appoint, by writing under his hand, one or more of the justices of such borough or place to exercise [*within the same*] during such time

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Sect. 9. Note. Sub-s. (3).

It is not customary for county court judges in the metropolis to exercise powers under this Act. Application should be made to the metropolitan stipendiary magistrates whenever it is desired to invoke the power of the "judicial authority." (See Lunacy Act, 1891 (53 & 54 Vict. c. 65), as to transfer of petitions from one judicial authority to another.)

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Sect. 10. Note. Sub-s. (1).

The words in italics are repealed by the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 29; and by sect. 24 (4) of that Act all the county or borough justices may be appointed to act as the judicial authority.

Sub-s. (2).

The jurisdiction of the justices appointed under this section continues until a fresh appointment is made. (See sect. 24 (5) of the Lunacy Act, 1891 (54 & 55 Vict. c. 65).)

Sub-s. (4).

The words in italics are repealed by the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 29.

Sect. 10.

as the Lord Chancellor thinks fit the powers aforesaid, together with any other specially appointed justices acting therein.

(5) In the case of the death, absence, inability, or refusal to act of any justice appointed under this section, the justices of the county or borough, or the Lord Chancellor, as the case may be, may appoint a justice to act in his place. Such appointment may be made by justices of a county at any quarter sessions, and by justices of a borough at special sessions to be held at the same time as any quarter sessions.

(6) All appointments of justices under this section shall be recorded by the clerk of the peace of the county or borough, or in the case of a borough or place not having a separate quarter sessions, by the clerk to the justices, and it shall be the duty of every such clerk to publish the names of the justices so appointed in each petty sessional division of the county and otherwise for the information of all persons interested. In the case of quarter sessions boroughs, the clerk to the justices making the appointment shall forthwith notify the same to the clerk of the peace of the borough.

*Urgency Orders.*

Urgency orders.

XI.—(1) In cases of urgency where it is expedient, either for the welfare of a person (not a pauper) alleged to be a lunatic, or for the public safety, that the alleged lunatic should be forthwith placed under care and treatment, he may be

Forms 4, 8, 9.

received and detained in an institution for lunatics, or as a single patient upon an urgency order, made (if possible), by the husband or wife or by a relative of the alleged lunatic, accompanied by one medical certificate.

(2) An urgency order may be signed before or after the medical certificate.

(3) If an urgency order is not signed by the husband or wife or by a relative of the alleged lunatic, the order shall contain a statement of the reasons why the same is not so signed and of the connexion with the alleged lunatic of the person signing the order, and the circumstances under which he signs the same.

(4) No person shall sign an urgency order unless he is at least twenty-one years of age and has within two days before the date of the order personally seen the alleged lunatic.

(5) An urgency order may be made as well after as before a petition for a reception order has been presented. An urgency order, if made before a petition has been presented, shall be referred to in the petition, and if made after the petition has been presented, a copy thereof shall forthwith be sent by the petitioner to the judicial authority to whom the petition has been presented.

(6) An urgency order shall remain in force for seven days

from its date; or if a petition for a reception order is pending, then until the petition is finally disposed of. Sect. 11.

(7) An urgency order shall have subjoined or annexed thereto a statement of particulars. Form 2.

*Reception after Inquisition.*

XII. A lunatic so found by inquisition may be received in an institution for lunatics or as a single patient upon an order signed by the committee of the person of the lunatic, and having annexed thereto an office copy of the order appointing the committee, or if no such committee has been appointed, upon an order signed by a master. Lunatics so found by inquisition.

*Summary Reception Orders.*

XIII.—(1) Every constable, relieving officer, and overseer of a parish, who has knowledge that any person within the district or parish of the constable, relieving officer, or overseer, who is not a pauper and not wandering at large, is deemed to be a lunatic and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, shall within three days after obtaining such knowledge give information thereof upon oath to a justice being a judicial authority under this Act. Lunatics not under proper care and control or cruelly treated or neglected.

(2) Any such justice upon the information on oath of any person whomsoever, that a person [*within the limits of his jurisdiction*], not a pauper and not wandering at large, is deemed to be a lunatic and is not under proper care and control, or is cruelly treated or neglected as aforesaid, may himself visit the alleged lunatic, and shall, whether making such visit or not, direct and authorize any two medical practitioners whom he thinks fit to visit and examine the alleged lunatic and to certify their opinion as to his mental state, and the justice shall proceed in the same manner so far as possible, and have as to the alleged lunatic the same powers, as if a petition for a reception order had been presented by the person by whom the information with regard to the alleged lunatic has been sworn.

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Sect. 13. Note.

For definition of "summary reception orders," see sect. 19 (1), *infra*.

Where in a union there are more than one relieving officer the guardians may specially direct one of such relieving officers to discharge the duties of a relieving officer with regard to lunatics throughout the union; Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 2 (2). Sub-s. (1).

As to time and manner of medical examination of a lunatic, see sect. 29, *infra*, and as to who may act as medical practitioners for the purpose of giving certificates, see sects. 32, 33, and 341, *infra*. Sub-s. (2).

Sect. 13.

(3) If upon the certificates of the medical practitioners who examine the alleged lunatic, or after such other and further inquiry as the justice thinks necessary, he is satisfied that the alleged lunatic is a lunatic, and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, and that he is a proper person to be taken charge of and detained under care and treatment, the justice may by order direct the lunatic to be received and detained in any institution for lunatics to which, if a pauper, he might be sent under this Act, and the constable, relieving officer, or overseer upon whose information the order has been made, or any constable whom the justice may require so to do, shall forthwith convey the lunatic to the institution named in the order.

Form 15.

Notice to be given of pauper lunatic who ought to be sent to an asylum.

XIV.—(1) Every medical officer of a union who has knowledge that a pauper resident within the district of the officer is or is deemed to be a lunatic and a proper person to be sent to an asylum, shall, within three days after obtaining such knowledge, give notice thereof in writing to the relieving officer of the district, or, if there is no such officer, to an overseer of the parish where the pauper resides.

(2) Every relieving officer and every overseer of a parish of which there is no relieving officer, who respectively have knowledge, either by notice from a medical officer or otherwise, that any pauper resident within the district or parish of the relieving officer or overseer is deemed to be a lunatic, shall, within three days after obtaining such knowledge, give notice thereof to a justice having jurisdiction in the place where the pauper resides.

(3) A justice, upon receiving such notice, shall by order require the relieving officer or overseer giving the notice, to bring the alleged lunatic before him or some other justice

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Sect. 13.

Note.

Sub-s. (3).

Under the corresponding section of the repealed Lunatic Asylums Act, 1853 (16 & 17 Vict. c. 97), s. 68, it was held that it was not necessary that the justices should examine the alleged lunatic in the presence of the medical men called in, or that the examination should be made with the knowledge of the alleged lunatic, so that he should have the opportunity of explaining, if he could, what might otherwise be considered signs of his insanity (*Reg.* v. *Whitfield*, 15 Q. B. D. 122; 54 L. J. M. C. 113; 53 L. T. 96; 49 J. P. 820).

A person sent to an institution for lunatics under this section is to be classified as a pauper until it is ascertained that he is entitled to be classified as a private patient (Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 3).

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Note.

The chairman of a board of guardians may be authorized to sign orders under this section. (See Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 25.)

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having jurisdiction in the place where the pauper resides at such time and place within three days from the time of the notice to the justice as shall be appointed by the order.

Lunatic wandering at large to be brought before a justice.

XV.—(1) Every constable and relieving officer and every overseer of a parish who has knowledge that any person (whether a pauper or not) wandering at large within the district or parish of the constable, relieving officer, or overseer is deemed to be a lunatic, shall immediately apprehend and take the alleged lunatic, or cause him to be apprehended and taken, before a justice.

(2) Any justice, upon the information upon oath of any person that a person wandering at large within the limits of his jurisdiction is deemed to be a lunatic, may by order require a constable, relieving officer, or overseer of the district or parish where the alleged lunatic is, to apprehend him, and bring him before the justice making the order, or any justice having jurisdiction where the alleged lunatic is.

Lunatic brought before a justice

XVI. The justice before whom a pauper alleged to be a lunatic or an alleged lunatic wandering at large is brought under this Act shall call in a medical practitioner, and shall

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Sect. 16.

Note.

A constable, relieving officer, or overseer whose duty it is to convey the lunatic to or from an institution for lunatics, may make proper arrangements for the performance of his duty by some other person or persons (Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 2 (1) ).

The jurisdiction of a justice to make a reception order is not affected by any irregularity in the method by which the alleged lunatic is brought before him (*Reg.* v. *Rhyddlan*, 14 Q. B. 327; 19 L. J. M. C. 110).

Even if the person brought before the justice be proved to be lunatic, the justice has a discretion as to whether or not he will make a reception order; and when a lunatic is chargeable to a union wherein he is not settled, and he is not in such a state as to render him unfit to be at large, he may be removed to his place of settlement in the ordinary manner by an order of removal (*Reg.* v. *Barnsley*, 12 Q. B. 193; 18 L. J. M. C. 170; 13 J. P. 329; *Reg.* v. *Wakefield*, 48 J. P. 326). The fact that a pauper has acquired a status of irremovability in any parish does not prevent his being sent to an institution for lunatics not in that parish [or union] (*Reg.* v. *Leaden Roothing*, 12 Q. B. 181; 18 L. J. M. C. 187).

Although an order for the admission of a pauper lunatic into a licensed house under 8 & 9 Vict. c. 100, s. 48 (now repealed), signed by a clergyman and an overseer was held not to be of a judicial nature and therefore not removable by *certiorari* (*Reg.* v. *Hatfield Peverel*, 14 Q. B. 298; 18 L. J. M. C. 225), an order for the reception of a lunatic by two justices under 16 & 17 Vict. c. 97, s. 68 (now repealed), was removed by *certiorari* without objection being taken to want of jurisdiction (*Reg.* v. *Whitfield*, 15 Q. B. D. 122; 54 L. J. M. C. 113; 53 L. T. 96; 49 J. P. 820); and an order by a clergyman and relieving officer for the removal of a lunatic pauper

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may be sent to an institution for lunatics.

examine the alleged lunatic, and make such inquiries as he thinks advisable, and if upon such examination or other proof the justice is satisfied in the first-mentioned case that the alleged lunatic is a lunatic and a proper person to be detained, and, in the secondly-mentioned case, that the alleged lunatic is a lunatic, and was wandering at large, and is a proper person to be detained, and if in each of the foregoing cases the medical practitioner who has been called in signs a medical certificate with regard to the lunatic, the justice may by order direct the lunatic to be received and detained in the institution for lunatics named in the order, and the relieving officer, overseer, or constable who brought the lunatic before the justice, or in the case of a lunatic wandering at large, any constable who may by the justice be required so to do, shall forthwith convey the lunatic to such institution.

Form 8.

Form 12.

Power to examine alleged lunatic at his own abode or elsewhere.

XVII. Where, under this Act, notice has been given to, or an information upon oath laid before a justice that a pauper resident within the limits of his jurisdiction is deemed to be a lunatic, and a proper person to be sent to an asylum, or that a person, whether a pauper or not, wandering at large within the limits aforesaid, is deemed to be a lunatic, such justice may examine the alleged lunatic at his own house or elsewhere, and may proceed in all respects as if the alleged lunatic had been brought before him.

When lunatic may be treated as a pauper.

XVIII. A justice shall not sign an order for the reception of a person as a pauper lunatic into an institution for lunatics, or workhouse, unless he is satisfied that the alleged pauper is either in receipt of relief, or in such circumstances as to require relief for his proper care. If it appears by the order that the justice is so satisfied, the lunatic shall be deemed to be a pauper chargeable to the union, county, or borough properly liable for his relief. A person who is visited by a medical officer of the union, at the expense of the union, is, for the purposes of this section, to be deemed to be in receipt of relief.

Suspension of removal under reception order.

XIX.—(1) A justice making an order for the reception of a lunatic otherwise than upon petition, in this Act called a

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Sect. 16.

Note.

to an asylum under 16 & 17 Vict. c. 97, s. 67 (now repealed), was assumed to be removable by *certiorari* (*Reg.* v. *Smith*, 5 Q. B. D. 95; 49 L. J. M. C. 29; 41 L. T. 664; 28 W. R. 662; 44 J. P. 184). There seems little doubt, therefore, but that a summary reception order under this Act is removable by *certiorari*.

The justice may make an order upon the guardians for payment of the fees for the medical examination, and of the expenses of carrying the reception order into effect. (See sect. 285, *infra*.)

A person sent to an institution for lunatics under this section is to be classified as a pauper until it is ascertained that he is entitled to be classified as a private patient (Lunacy Act, 1891 (54 & 55 Vict. c. 65, s. 3)).

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"summary reception order," may suspend the execution of the order for such period not exceeding fourteen days as he thinks fit, and in the meantime may give such directions or make such arrangements for the proper care and control of the lunatic as he considers proper.

(2) If a medical practitioner who examines a lunatic as to whom a summary reception order has been made, certifies in writing that the lunatic is not in a fit state to be removed, the removal shall be suspended until the same or some other medical practitioner certifies in writing that the lunatic is fit to be removed, and every medical practitioner who has certified that the lunatic is not in a fit state to be removed shall, as soon as in his judgment the lunatic is in a fit state to be removed, be bound to certify accordingly.

Removal of lunatic to workhouse in urgent cases.

XX. If a constable, relieving officer, or overseer is satisfied that it is necessary for the public safety or the welfare of an alleged lunatic with regard to whom it is his duty to take any proceedings under this Act, that the alleged lunatic should, before any such proceedings can be taken, be placed under care and control, the constable, relieving officer, or overseer may remove the alleged lunatic to the workhouse of the union in which the alleged lunatic is, and the master of the workhouse shall, unless there is no proper accommodation in the workhouse for the alleged lunatic, receive and relieve, and detain the alleged lunatic therein, but no person shall be so detained for more than three days, and before the expiration of that time, the constable, relieving officer, or overseer shall take such proceedings with regard to the alleged lunatic as are required by this Act.

Temporary removal of lunatic to workhouse under order of justice.

XXI.—(1) In any case where a summary reception order might be made, any justice, if satisfied that it is expedient for the welfare of the lunatic, or for the public safety, that the lunatic should forthwith be placed under care and control, and if it appears to him that there is proper accommodation for the

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Sect. 20.

Note.

In an action against guardians and their relieving officer for wrongful detention under this section of the plaintiff, an alleged lunatic, who was discharged as sane when proceedings for obtaining a reception order were taken, Hawkins, J., directed the jury that there was no case against the guardians, and that if they thought that the relieving officer had honestly satisfied himself that the plaintiff was a lunatic and should be placed under temporary restraint, he was also entitled to their verdict (*Times*, 20th and 24th January, 1898); and, generally, the whole responsibility for taking action under this section lies solely upon the constable, relieving officer, or overseer who removes the alleged lunatic to the workhouse, and none upon any medical practitioner whose opinion is sought in the matter by such constable, &c. (*Thompson* v. *Schmidt*, 8 T. L. R. 120; 56 J. P. 212).

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lunatic in the workhouse of the union in which the lunatic is, may make an order for taking the lunatic to and receiving him in that workhouse.

(2) In any case where a summary reception order has been made, an order under this section may be made to provide for the detention of the lunatic until he can be removed.

(3) An order under this section shall not authorize the detention of a lunatic in a workhouse for more than fourteen days, after which period such detention shall not be lawful, except in accordance with the provisions of this Act as to the detention of lunatics in workhouses.

(4) An order under this section may be made by any justice having jurisdiction in the place where the lunatic is.

Power to allow a relation or friend to take charge of a lunatic.

XXII. In the case of a lunatic as to whom a summary reception order may be made nothing in this Act shall prevent a relation or friend from retaining or taking the lunatic under his own care if a justice having jurisdiction to make the order, or the visitors of the asylum in which the lunatic is or is intended to be placed, shall be satisfied that proper care will be taken of the lunatic.

*Reception Order by two Commissioners.*

Commissioners may send pauper lunatic to an institution for lunatics.

XXIII.—(1) Any two or more commissioners may visit a pauper lunatic or alleged lunatic not in an institution for lunatics, or workhouse, and may, if they think fit, call in a medical practitioner.

(2) If the medical practitioner signs a medical certificate with regard to the lunatic, and the commissioners are satisfied that the pauper is a lunatic, and a proper person to be detained, they may by order direct the lunatic to be received in an institution for lunatics, and the relieving officer of the district or any constable who may by them be required so to do shall forthwith convey the lunatic to such institution.

Form 8.

*Lunatics in Workhouses.*

Lunatics in workhouses.

XXIV.—(1) Except in the cases mentioned in this Act, no person shall be allowed to remain in a workhouse as a lunatic unless the medical officer of the workhouse certifies in writing—

Form 10.

(*a.*) That such person is a lunatic, with the grounds for the opinion; and

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Sect. 24. Note. Sub-s. (1).

A medical superintendent of an asylum provided under the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), is not required to certify to the effect in this sub-clause mentioned (Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 4 (2)).

(*b.*) That he is a proper person to be allowed to remain in a workhouse as a lunatic; and Sect. 24.

(*c.*) That the accommodation in the workhouse is sufficient for his proper care and treatment, separate from the inmates of the workhouse not lunatics, unless the medical officer certifies that the lunatic's condition is such that it is not necessary for the convenience of the lunatic or of the other inmates that he should be kept separate.

(2) A certificate under this section shall be sufficient authority for detaining the lunatic therein named against his will in the workhouse for fourteen days from its date.

(3) No lunatic shall be detained against his will or allowed to remain in a workhouse for more than fourteen days from the date of a certificate under this section without an order under the hand of a justice having jurisdiction in the place where the workhouse is situate. Form 11.

(4) The order in the last preceding sub-section mentioned may be made upon the application of a relieving officer of the union to which the workhouse belongs, supported by a medical certificate under the hand of a medical practitioner, not being an officer of the workhouse, and by the certificate under the hand of the medical officer of the workhouse herein-before mentioned. Forms 8, 10.

(5) The guardians of the union to which the workhouse belongs shall pay such reasonable remuneration as they think fit to the medical practitioner who, not being an officer of the workhouse, examines a person for the purpose of a certificate under this section.

(6) If, in the case of a lunatic being in a workhouse, the medical officer thereof does not sign such certificate as in sub-section one of this section mentioned, or if at or before the expiration of fourteen days from the date of the certificate an order is not made under the hand of a justice for the detention of the lunatic in the workhouse, or, if after such an order has been made, the lunatic ceases to be a proper person to be detained in a workhouse, the medical officer of the workhouse shall forthwith give notice in writing to a relieving officer of the union to which the workhouse belongs [*that a pauper in the workhouse is a lunatic and a proper person to be sent to an asylum*], and thereupon the like proceedings shall be taken by the relieving officer and all other persons for the purpose of

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Note.

For an exception to this sub-section see Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 4 (1).

Sub-s. (3).

The medical certificates on which an order under this section is founded must be attached to the order (*Ib.* s. 5).

Sub-s. (6).

The words in italics are repealed by the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 29.

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removing the lunatic to an asylum, and within the same time, as by this Act provided in the case of a pauper deemed to be a lunatic and a proper person to be sent to an asylum, and, pending such proceedings, the lunatic may be detained in the workhouse.

30 & 31 Vict. c. 6.

(7) In the case of a lunatic in an asylum provided for reception and relief of the insane under the Metropolitan Poor Act, 1867, notices to be given to and proceedings to be taken by a relieving officer shall be given to and taken by one of the officers of the asylum to be nominated for the purpose by the managers of the asylum district.

25 & 26 Vict. c. 111.

(8) As regards every pauper in a workhouse at the date of the commencement of this Act, as to whom a certificate has been signed under section twenty of the Lunacy Acts Amendment Act, 1862, no certificate or order of a justice under this section shall be required.

Power to send discharged pauper not recovered to a workhouse.

XXV. Where a pauper lunatic is discharged from an institution for lunatics, and the medical officer of the institution is of opinion that the lunatic has not recovered and is a proper person to be kept in a workhouse as a lunatic, the medical officer shall certify such opinion, and the lunatic may thereupon be received and detained against his will in a workhouse without further order if the medical officer of the workhouse certifies in writing that the accommodation in the workhouse is sufficient for the lunatic's proper care and treatment, separate from the inmates of the workhouse not lunatics, or that the lunatic's condition is such that it is not necessary for the convenience of the lunatic, or of the other inmates, that he should be kept separate.

Chronic lunatics may be received in workhouses in certain cases.

XXVI.—(1) The visitors of any asylum may, with the consent of the Local Government Board and the commissioners, and subject to such regulations as they respectively prescribe, make arrangements with the guardians of any union for the reception into the workhouse of any chronic lunatics, not being dangerous, who are in the asylum and have been selected and certified by the manager of the asylum as proper to be removed to the workhouse.

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Sect. 25. Note. Sub-s. (8).

A wife having become insane and chargeable to the union in which her husband resided, was taken to the workhouse of the union, and the medical officer certified that she was a proper person to be kept in a workhouse. An order was then made by justices for her removal, without her husband, to another union, which was the place of the husband's last settlement. The order was made with the consent of the husband; the wife was not in a condition to assent or dissent. *Held* that the order was rightly made, and did not contravene the policy of the law with regard to the separation of husband and wife (*Reg.* v. *Preston*, 11 Q. B. D. 113; 52 L. J. M. C. 97; 49 L. T. 104; 48 J. P. 69).

(2) Every lunatic received in a workhouse under this section shall, while he remains there, continue a patient on the books of the asylum for the purposes of this Act so far as it relates to lunatics removed to asylums. Sect. 26.

*Institutions in which Lunatics may be received.*

XXVII.—(1) Subject to the restrictions in this section mentioned, every summary reception order, and every reception order made by two or more commissioners, may authorize the reception of the lunatic named in the order not only into an asylum of the county or borough in which the place from which the lunatic is sent is situate, but also into any other institution for lunatics. Institutions to which lunatics may be removed.

(2) A lunatic shall not under any such order be sent elsewhere than to an asylum of the county or borough in which the place from which he is sent is situate, unless there is no such asylum, or there is a deficiency of room, or there are some special circumstances by reason whereof the lunatic cannot conveniently be taken to such asylum, and the deficiency of room or special circumstances shall be stated in the order.

(3) A pauper lunatic shall not be received under an order into any asylum other than an asylum belonging wholly or in part to the county or borough in which the place from which the lunatic is sent or the parish in which he is adjudged to be settled is situate, unless there is a subsisting contract for the reception of lunatics of such county or borough therein, or such borough otherwise contributes to the asylum into which the pauper is to be received, except the order is indorsed by a visitor of that asylum.

(4) The manager of a hospital or licensed house shall not be bound to receive any lunatic under any such order except in pursuance of a subsisting contract.

*Requirements of Reception Orders and Medical Certificates.*

XXVIII.—(1) Every medical certificate under this Act shall be made and signed by a medical practitioner. Medical certificates.

(2) Every medical certificate upon which a reception order is founded shall state the facts upon which the certifying

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As to lunatics sent from the workhouse of a union situate in more than one county, see sect. 68, *infra*; and as to lunatics sent from a workhouse situate in a county which does not include the union to which the workhouse belongs, see the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 6. Sect. 27. Note. Sub-s. (2).

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The form of the certificate is given in No. 8 in the second schedule to this Act, *infra*. As to the effect of variations from the form, see *Reg.* v. *Minster*, 14 Q. B. 349. Sect. 28. Note. Sub-s. (2).

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medical practitioner has formed his opinion that the alleged lunatic is a lunatic, distinguishing facts observed by himself from facts communicated by others; and a reception order shall not be made upon a certificate founded only upon facts communicated by others.

(3) The medical certificate accompanying an urgency order shall contain a statement that it is expedient for the welfare of the alleged lunatic or for the public safety that he should be forthwith placed under care and treatment, with the reasons for such statement.

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(4) Every medical certificate made under and for the purposes of this Act shall be evidence of the facts therein appearing and of the judgment therein stated to have been formed by the certifying medical practitioners on such facts, as if the matters therein appearing had been verified on oath.

Time and manner of medical examination of lunatic.

XXIX.—(1) A reception order shall not be made unless the medical practitioner who signs the medical certificate, or where two certificates are required, each medical practitioner who signs a certificate, has personally examined the alleged lunatic in the case of an order upon petition not more than seven clear days before the date of the presentation of the petition, and in all other cases not more than seven clear days before the date of the order.

(2) Where two medical certificates are required, a reception order shall not be made unless each medical practitioner signing a certificate has examined the alleged lunatic separately from the other.

(3) In the case of an urgency order, the lunatic shall not be received under the order unless it appears by the medical certificate accompanying the order that the certifying medical practitioner has personally examined the alleged lunatic not more than two clear days before his reception.

Persons disqualified for signing certificates.

XXX. A medical certificate accompanying a petition for a reception order or accompanying an urgency order shall not be signed by the petitioner or person signing the urgency order, or by the husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, partner or assistant of such petitioner or person.

Usual medical attendant to sign medical certificate in case of private patient, if possible.

XXXI. One of the medical certificates accompanying a petition for a reception order shall, whenever practicable, be under the hand of the usual medical attendant, if any, of the alleged lunatic. If for any reason it is not practicable to obtain a certificate from such usual medical attendant, the reason shall be stated in writing by the petitioner to the judicial authority to whom the petition is presented, and such statement shall be deemed to be part of the petition.

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Patients not to be received under certificates by interested persons.

XXXII.—(1) No person shall be received or detained as a lunatic in any institution for lunatics, or as a single patient, where any certificate accompanying the reception order has been signed by any of the following persons :—

(*a.*) The manager of the institution or the person who is to have charge of the single patient :

(*b.*) Any person interested in the payments on account of the patient :

(*c.*) Any regular medical attendant in the institution :

(*d.*) The husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, or the partner or assistant of any of the foregoing persons.

(2) Neither of the persons signing the medical certificates in support of a petition for the reception order shall be the father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, or the partner or assistant, of the other of them.

(3) No person shall be received as a lunatic in a hospital under an order made on the application of, or under a certificate signed by, a member of the managing committee of the hospital.

Commissioners and visitors not to sign certificates.

XXXIII. A medical practitioner who is a commissioner or a visitor shall not sign any certificate for the reception of a patient into a hospital or licensed house, unless he is directed to visit the patient by a judicial authority under this Act, or by the Lord Chancellor, or a Secretary of State, or a committee appointed by the judge in lunacy.

Amendment of orders and certificates.

XXXIV.—(1) If an order or certificate for the reception of a lunatic is, after such reception, found to be in any respect incorrect or defective, such order or certificate may, within fourteen days next after such reception, be amended by the person who signed the same. No amendment shall be allowed unless the same receives the sanction of the commissioners, or of some one of them, and (in the case of a private patient) the consent of the judicial authority by whom the order for the reception of the lunatic may have been signed.

(2) If the commissioners deem any such certificate to be

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Note.

Sub-s. (1).

The alteration of an immaterial part of an order, made without the sanction of a commissioner, does not invalidate the order so as to make the manager of the institution in which the patient is detained liable in damages for wrongful detention of the patient (*Lowe* v. *Fox*, 12 App. Cas. 206; 56 L. J. Q. B. 480; 56 L. T. 406; 51 J. P. 468).

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incorrect or defective, they may, by a direction in writing, addressed to the manager of the institution for lunatics, or to the person having the charge of a single patient, require the same to be amended by the person who signed the same, and if the same be not duly amended to their satisfaction within fourteen days next after the reception of the patient, the commissioners, or any two of them, may, if they think fit, make an order for the patient's discharge.

(3) Every order and certificate amended under this section shall take effect as if the amendment had been contained therein when it was signed.

Authority for reception.

XXXV.—(1) A reception order if the same appears to be in conformity with this Act, shall be sufficient authority for the petitioner or any person authorized by him, or in the case of an order not made upon petition for the person authorized so to do by the person making the order, to take the lunatic and convey him to the place mentioned in such order and for his reception and detention therein, and the order may be acted on without further evidence of the signature or of the jurisdiction of the person making the order.

(2) In the case of a reception order made upon petition the order, together with the petition, statement of particulars, and medical certificates upon which the order was made, shall be delivered or sent by post to the person on whose petition the order was made, and shall by him or his agent be delivered to the manager of the institution for lunatics in which, or to the person by whom, the lunatic is to be received.

Fresh order and certificates not to be required in certain cases.

XXXVI.—(1) Where a reception order has been made, and the execution of the order has been suspended, or the lunatic named in the order has been temporarily taken to a workhouse under the provisions of this Act, he may be received in the institution for lunatics named in the order at any time within fourteen days after the date of the reception order.

(2) If the removal of the lunatic has been suspended by reason of a medical certificate that the lunatic is not in a fit state for removal, the lunatic may be received in the institution for lunatics named in the order within three days after the date of a medical certificate that the lunatic is in a fit state to be removed.

(3) In all other cases a reception order shall cease to be of any force unless the lunatic has been received thereunder before the expiration of seven clear days from its date.

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Note. Sub-s. (1).

A reception order in proper form justifies the authorities of the institution or the person to whom it is directed in receiving and detaining the person therein named, although in fact such person is not a lunatic. (See *Norris* v. *Seed*, 3 Exch. 782; 18 L. J. Exch. 300; 13 Jur. 830.)

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Order and certificate to remain in force in certain cases.

XXXVII.—(1) An order for the reception of a patient as a pauper lunatic shall extend to authorize his detention though it may afterwards appear that he is entitled to be classified as a private patient, and an order required for the reception of a private patient shall authorize his detention although it may afterwards appear that he ought to be classified as a pauper patient.

(2) If a patient is removed temporarily under the provisions of this Act from the place in which he is confined, or is transferred from one place of confinement to another, the original order and certificate or certificates upon which he was received shall remain in force.

*Duration of Reception Orders.*

Duration of reception orders.

XXXVIII.—(1) Every reception order dated after or within three months before the commencement of this Act, shall expire at the end of one year from its date, and any such order dated three months or more before the commencement of this Act shall expire at the end of one year after the commencement of this Act unless such orders respectively are continued as herein-after provided.

(2) In the case of any institution for lunatics the commissioners may by order under their seal direct that the reception orders of patients detained therein shall, unless continued as herein-after provided, expire on any quarterly day next after the days on which the orders would expire under the last preceding sub-section.

(3) An order for the removal of a patient from one custody to another shall not be deemed to be a reception order within this section, but the patient who is removed shall after removal be deemed to be detained under the original reception order as a lunatic, and such order shall expire in accordance with the provisions of this section unless continued as herein-after provided.

[(4) A reception order shall remain in force for a year after the date by this Act or by an order of the commissioners appointed for it to expire, and thereafter for two years and thereafter for three years, and after the end of such periods of one, two and three years for successive periods of five years, if not more than one month nor less than seven days before the expiration of the period at the end of which, as fixed by this Act or by an order of the commissioners under sub-section two, the order would expire, and of each subsequent period of one, two, three, and five years respectively, a special report of the medical officer of the institution or of the medical attendant of the single patient as to the mental and bodily condition of

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Note. Sub-s. (4).

The original sub-section (4) is repealed, and the above sub-section substituted therefor by the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 7.

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the patient with a certificate under his hand certifying that the patient is still of unsound mind and a proper person to be detained under care and treatment is sent to the commissioners.]

(5) The person sending the special report shall give to the commissioners such further information concerning the patient to whom the special report relates as they require.

(6) If in the opinion of the commissioners the special report does not justify the accompanying certificate, then—

(*a.*) In the case of a patient in a hospital or licensed house or under care as a single patient, the commissioners shall make further inquiry, and if dissatisfied with the result they or any two of them may by order direct his discharge:

(*b.*) In the case of a patient in an asylum, the commissioners shall send a copy of the report, with any other information in their possession relating to the case, to the clerk to the visiting committee of the asylum, and the committee, or any three of them, shall thereupon investigate the case, and may discharge the patient or give such directions respecting him as they may think proper.

(7) The manager of any institution for lunatics, and any person having charge of a single patient, who detains a patient after he has knowledge that the order for his reception has expired, shall be guilty of a misdemeanour.

(8) The special reports and certificates under this section may include and refer to more than one patient.

(9) A certificate under the hand of the secretary to the commissioners that an order for reception has been continued to the date therein mentioned shall be sufficient evidence of the fact.

(10) This section shall not apply to lunatics so found by inquisition.

## PART II.

## CARE AND TREATMENT.

### *Reports after Reception.*

Reports upon and visits to private patients.

XXXIX.—(1) The medical officer of every institution for lunatics, and the medical attendant of every single patient shall at the expiration of one month after the reception of a private patient prepare and send to the commissioners a report as to the mental and bodily condition of the patient, in such form as the commissioners direct.

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Note.

By sect. 8 of the Lunacy Act, 1891 (54 & 55 Vict. c. 65), this section is not to apply to lunatics received under a removal order, or to lunatics so found by inquisition.

(2) The medical officer of every house licensed by justices shall also at the same time send a copy of such report to the clerk of the visitors of licensed houses in the county or borough where the house is situate to be by him laid before the visitors.

(3) The commissioners, after receiving the report upon any patient in a licensed house within their immediate jurisdiction, shall make arrangements for a visit being paid as soon as conveniently may be to the patient by one or more of the commissioners ; and the commissioner or commissioners so visiting shall report to the commissioners whether the detention of the patient is or is not proper.

(4) The visitors, after receiving the report, shall, in every case of a private patient in a licensed house in the county or borough for which the visitors are appointed, make arrangements for a visit being paid by the medical visitor (either alone or with one or more of the other visitors) to the patient therein named for such purpose as aforesaid, as soon as conveniently may be ; and if on such visit there appears to be any doubt as to the propriety of the detention of the patient, such visitor or visitors shall forthwith report the same in writing to the commissioners, who shall thereupon make all such further inquiries as may be necessary to satisfy themselves whether the patient is properly detained as a lunatic, or whether he ought to be discharged, or whether the case ought to be reported to the Lord Chancellor with a view to an inquisition.

(5) In the case of a single patient the commissioners, after receiving the report, shall either make arrangements for a visit being paid as soon as conveniently may be to the patient therein named by one or more of the commissioners, or, if no commissioner is available, shall cause a copy of the report to be sent to a medical visitor for the county or borough in which the single patient resides, or to some other competent person, and shall direct him to visit the patient therein named as soon as conveniently may be. The commissioner or commissioners, or other person visiting the patient, shall report to the commissioners whether his detention is or is not proper.

(6) The person directed to visit a single patient under the last preceding sub-section shall for that purpose have all the powers of a commissioner, and the commissioners may, with the consent of the Treasury, pay to him such reasonable remuneration for his services as they think fit out of any funds which may be provided by Parliament to defray the general expenses of the commissioners.

(7) In the case of a private patient in an asylum or hospital the commissioners, after receiving the report, shall either make arrangements for a visit being paid, as soon as conveniently may be, to the patient therein named by one or more of the commissioners, who shall report to the commissioners whether the detention of the patient is or is not proper ; or the commissioners shall send a copy of the report to the clerk to the

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visiting committee of the asylum or to the managing committee of the hospital, and one or more members of the committee shall thereupon, as soon as conveniently may be, visit the patient named in the report and report to the committee whether his detention is or is not proper, and the committee, or any three of them, may, upon consideration of such last-mentioned report, by writing under their hands discharge the patient or give such directions with regard to him as they think fit.

(8) If within a month after the reception of any private patient, the institution for lunatics or house into which he was received is visited by one or more commissioners or by any visitors, and such patient is there seen and examined by him or them, and the propriety of his detention reported on in like manner as by this section provided, no special visit shall necessarily be paid to such patient after receipt of any such report.

(9) If the commissioners in any case under this section determine that a patient ought to be discharged they may make an order for his discharge.

*Mechanical Restraint.*

Mechanical means of restraint.

XL.—(1) Mechanical means of bodily restraint shall not be applied to any lunatic unless the restraint is necessary for purposes of surgical or medical treatment, or to prevent the lunatic from injuring himself or others.

(2) In every case where such restraint is applied a medical certificate shall, as soon as it can be obtained, be signed, describing the mechanical means used, and stating the grounds upon which the certificate is founded.

(3) The certificate shall be signed, in the case of a lunatic in an institution for lunatics or workhouse, by the medical officer thereof, and in the case of a single patient, by his medical attendant.

(4) A full record of every case of restraint by mechanical means shall be kept from day to day; and a copy of the records and certificates under this section shall be sent to the commissioners at the end of every quarter.

(5) In the case of a workhouse, the record to be kept under this section shall be kept by the medical officer of the workhouse, and the copies of records and certificates to be sent shall be sent by the clerk to the guardians.

(6) In the application of this section "mechanical means" shall be such instruments and appliances as the commissioners may, by regulations to be made from time to time, determine.

(7) Any person who wilfully acts in contravention of this section shall be guilty of a misdemeanour.

*Correspondence.*

Letters of patients.

XLI.—(1) The manager of every institution for lunatics, and every person having charge of a single patient, shall forward unopened all letters written by any patient and addressed to the Lord Chancellor or any judge in lunacy, or to a Secretary of State, or to the commissioners, or any commissioner, or to the person who signed the order for the reception of the patient, or on whose petition such order was made, or to the Chancery visitors or any Chancery visitor or to any other visitors or visitor or to the visiting committee, or any member of the visiting committee of the institution, in which any patient writing such letters may be, and may also at his discretion forward to its address any other letter if written by a private patient.

(2) Every manager of an institution for lunatics, and every person having charge of a single patient who makes default in complying with the obligation imposed on him by this section shall for each offence be liable to a penalty not exceeding twenty pounds.

*Notices.*

Notices as to letters and interviews.

XLII.—(1) Whenever the commissioners so direct, there shall, unless there is no private patient therein, be posted up in every institution for lunatics, printed notices setting forth—

(*a.*) The right of every private patient to have any letters written by him forwarded in pursuance of the last preceding section;

(*b.*) The right of every private patient to request a personal and private interview with a visiting commissioner or visitor at any visit which may be made to the institution.

(2) The notices shall be posted in the institution, so that every private patient may be able to see the name.

(3) The visiting commissioners or visitors may give directions as to the places in which such notices are to be posted.

(4) If the manager of any institution for lunatics makes default in posting such notices, or does not within ten days carry out any directions as to such notices given by the visiting commissioners or visitors, he shall for each offence be liable to a penalty not exceeding twenty pounds.

*Medical Attendance.*

Persons disqualified to be medical attendants of lunatic.

XLIII.—(1) A medical practitioner who has signed a certificate upon which a reception order in the case of a private patient has been made shall not be the regular professional attendant of the patient while detained under the order.

(2) A medical practitioner, who is a commissioner or visitor,

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shall not professionally attend upon a patient in a hospital or licensed house, unless he is directed to visit the patient by the person on whose petition the reception order was made, or by the Lord Chancellor, or a Secretary of State, or a committee appointed by the judge in lunacy.

Medical attendance on single patients.

XLIV.—(1) The commissioners may by order direct how often any single patient is to be visited by a medical practitioner.

(2) Until any such order is made, every single patient shall be visited once at least in every two weeks by a medical practitioner not deriving, and not having a partner, father, son, or brother who derives, any profit from the charge of the patient.

(3) Any two commissioners may direct that the medical attendant of a single patient shall cease to act in that capacity, and that some other person be employed in his place.

(4) If a person having charge of a single patient fails to give effect to any direction of the commissioners under this section, he shall be guilty of a misdemeanour.

(5) This section shall not apply to lunatics so found by inquisition.

Special report as to single patient.

XLV. The commissioners may at any time require from the medical attendant of a single patient a report in writing as to the patient, in such form and specifying such particulars as the commissioners direct, and such report shall be in addition to any periodical reports required to be sent to the commissioners.

*Power to take more than one Lunatic as a Single Patient.*

Power to take more than one person on same conditions as a single patient.

XLVI. In the case of any person having charge of a single patient, if the commissioners are satisfied that it is desirable, under special circumstances and for the interest of the patient that another patient or more than one other should reside in the same house, that person may, with the approval of the commissioners, receive such other patient or patients on the same terms and conditions in all respects as if each of them were a single patient.

*Visits of Friends.*

Admission to patients of friends, relations, and others.

XLVII.—(1) Any one of the commissioners, as to patients confined in an institution for lunatics or other place (not being a gaol) authorized to be visited by the commissioners, and any one of the visitors of a licensed house, as to patients confined in such house, may at any time give an order in writing under his hand for the admission to any patient of any relation or friend or of any medical or other person whom any relation or friend desires to be admitted to him.

(2) The order of admission may be either for a single admission, or for an admission for a limited number of times, or for admission generally at all reasonable times, and with or without any restriction as to the presence of an attendant or otherwise.

(3) If the manager or principal officer of any institution or place refuses, prevents, or obstructs the admission to any patient of any person who produces an order of admission, he shall for every offence be liable to a penalty not exceeding twenty pounds.

*Appointment of Substitute for Person who applied for Reception Order.*

Power to appoint substitute for the person who applied for reception order.

XLVIII.—(1) The commissioners may by order substitute for the person upon whose petition a reception order was made, and either during the life of such person or after his death, any other person who is willing to undertake the duties and responsibilities of the petitioner.

(2) As from the date of an order by the commissioners under this section the substituted person shall be subject to all the obligations and may exercise all the powers and authorities in relation to the patient of the person for whom he is substituted.

(3) The substitution shall not release the petitioner or his estate from any liabilities already incurred by him.

(4) An order under this section may be made with or without the consent of the petitioner, but in the last-mentioned case the order shall not be made during his life until fourteen days after the commissioners have given to him notice in writing of their intention to take into consideration the advisability of making an order under this section and of the name of the person proposed to be substituted.

(5) Within fourteen days after receipt of the notice the person to whom the notice is given may lay before the commissioners a statement in writing of his reasons why an order under this section should not be made, or he may appear in person before the commissioners at such time and place and subject to such restrictions as the commissioners may appoint for the purpose of stating such reasons. The commissioners shall, upon consideration of such statement, or, if no statement is made, at their own discretion, finally determine the matter, and make or decline to make the order, as they may think fit.

(6) A notice under this section may be sent by post to the last known address of the petitioner.

*Examination of Lunatic.*

Provision for any person to apply to have patient examined.

XLIX. An order for the examination by two medical practitioners, authorized by the commissioners, of any person detained as a lunatic in any institution for lunatics, or as a single

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patient, may be obtained from the commissioners upon the application of any person, whether a relative or friend or not, who satisfies the commissioners that it is proper for them to grant such order; and on production to the commissioners of the certificates of the medical practitioners so authorized, certifying that after two separate examinations with at least seven days intervening between the first and the second examination, they are of opinion that the patient may, without risk or injury to himself or the public, be discharged, the commissioners may order the patient to be discharged at the expiration of ten days from the date of the order.

*Inquiries as to Property.*

Inquiries as to property.

L.—(1) Where any person is detained as a lunatic and the commissioners represent to the Lord Chancellor that it is desirable that the extent and nature of his property, and its application, should be ascertained, the Lord Chancellor may, if he think fit, through the masters, require that the person upon whose petition the reception order under which the lunatic is detained was made, or other the person paying for the care and maintenance of the lunatic or having the management of his property, shall transmit to the Lord Chancellor a statement in writing, to the best of his knowledge, of the particulars of the property of the lunatic and of its application.

(2) The commissioners may also, whenever they think it expedient, make inquiries as to the property of any person detained as a lunatic.

*Application for a Search.*

Power for a commissioner or visitor to direct a search whether a particular person has been confined.

LI.—(1) If any person applies to a commissioner in order to be informed whether any particular patient is confined in any institution for lunatics, or other place subject to the visitation of the commissioners, the commissioner, if he thinks fit, may sign an order to the secretary of the commissioners, who shall search amongst the returns made to the commissioners, whether the person inquired after is or has been within the last twelve months confined.

(2) If it appears that the patient is or has been so confined, the secretary shall deliver to the applicant a statement in writing, specifying the situation of the institution or place in which the patient appears to be or to have been confined, and also (so far as the secretary can ascertain the same from any register or return in his possession) the name of the manager or principal officer of the institution or place, and the date of admission, and (in case of the patient's removal or discharge) the date of his removal or discharge.

(3) If any such application is made to a visitor as to any licensed house within his jurisdiction, the visitor may make the like order upon the clerk to the visitors, who shall make

search among the returns made to him, and deliver to the applicant the like statement as to any such licensed house as the secretary of the commissioners is by this section required to make and deliver. Sect. 51.

(4) The applicant shall pay to the person required to make a search under this section such sum not exceeding seven shillings as the commissioners or visitors fix.

*Diet.*

LII.—(1) The visiting commissioners may determine and regulate the diet of the pauper patients in any hospital or licensed house. Diet of patients.

(2) The visitors of a licensed house shall have the like power as to that house, subject, nevertheless, to any direction the visiting commissioners may give.

*Employment of Males in care of Females.*

LIII. It shall not be lawful to employ any male person in any institution for lunatics in the personal custody or restraint of any female patient, and any person employing a male person contrary to this section shall be liable to a penalty not exceeding twenty pounds. Provided that this section shall not extend to prohibit or impose a penalty on the employment of male persons on such occasions of urgency as may in the judgment of the manager of the institution render such employment necessary, but the manager shall in each case report the employment to the visiting commissioners or visitors at their next visit. Males not to be employed in personal custody of females.

*Book to be kept in Workhouse.*

LIV.—(1) The visiting guardians of every union shall, once at least in each quarter, enter in a book to be provided and kept by the master of the workhouse, such observations as they may think fit to make respecting the diet, accommodation, and treatment of the lunatics or alleged lunatics in the workhouse. Book to be kept in workhouse.

(2) Such book shall be laid by the master before the commissioner or commissioners at his or their next visit.

*Absence on Trial or for Health.*

LV.—(1) Any two visitors of an asylum, with the advice in writing of the medical officer, may permit a patient in the asylum to be absent on trial so long as they think fit. Absence on trial or for health.

Temporary absence on trial from the asylum under this section and residence during the period of such absence in another union, does not constitute such a break in residence as to relieve the union Sect. 55. Note. Sub-s. (1).

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(2) The visitors may make an allowance to a pauper lunatic absent from the asylum on trial, not exceeding the charge in the asylum, and that allowance, and no more, shall be paid for him as if he were in the asylum.

(3) The manager of any hospital or licensed house may, with such consent as herein-after mentioned:

(*a.*) Send or take, under proper control, any private patient or two or more private patients to any specified place [or to travel in England] for such period as may be thought fit for the benefit of his or their health:

(*b.*) Permit a private patient to be absent upon trial for such period as may be thought fit.

(4) The consent required by this section shall be either that of a commissioner, or in the case of a hospital that of two members of the managing committee, or in the case of a house licensed by justices that of two of the visitors. Any such consent may be renewed, and the place when required to be specified varied.

(5) Before such consent is given, the approval in writing of the person on whose petition the reception order was made, or by whom the last payment on account of the lunatic was made, shall be produced, unless the consenting persons, on cause being shown, dispense with the same.

(6) A commissioner as regards any hospital or licensed house, and two members of the managing committee of a hospital, and two of the visitors of a house licensed by [justices], may, of their own authority, permit a pauper patient to be absent upon trial for such period as may be thought proper, and may make or order to be made an allowance to the pauper, not exceeding the charge for him in the hospital or house, which shall be payable as if he were in the hospital or house, but shall be paid over to him or for his benefit as [such commissioner or such two visitors] may direct.

(7) The medical officer of a hospital or licensed house may, of his own authority, permit any patient to be absent from the hospital or house for a period not exceeding forty-eight hours.

(8) If a person allowed to be absent on trial for any period does not return at the expiration thereof, and a medical certificate certifying that his detention as a lunatic is no longer necessary is not sent to the visitors of the asylum or the

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Note.

Sub-s. (1). in which the patient had acquired a status of irremovability previous to his removal into the asylum from the charge of maintaining him in the asylum on his return thereto after such temporary absence (*Reg.* v. *Bruce*, [1892] 2 Q. B. 136; 40 W. R. 686; 56 J. P. 567).

Sub-s. (3). Amended by addition of the words in brackets by the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 9 (1).

Sub-s. (6). Amended by the substitution of the words in brackets for the words "visitors" and "the commissioners or visitors" respectively by the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 9 (2).

manager of the hospital or house, he may at any time within fourteen days after the expiration of the period of trial be retaken as in the case of an escape. Sect. 55.

LVI.—(1) Any person having charge of a single patient may change his residence and remove the patient to any new residence of such person in England. Change of residence of single patients.

(2) Seven clear days before a change of residence, the person having charge of a single patient shall give notice in writing thereof, and of the place of the new residence, to the commissioners and to the person on whose petition the reception order was made, or by whom the last payment on account of the patient was made.

(3) Any person having charge of a single patient, with the previous consent of a commissioner, may take or send the patient, under proper control, to any specified place or places, for any definite time, for the benefit of his health [or permit the patient to be absent upon trial for such period as may be thought fit].

(4) Before any consent by a commissioner is given, the approval in writing of the person on whose petition the reception order was made, or by whom the last payment on account of the patient was made, shall be produced to the commissioner, unless, on cause being shown, he dispenses with the same.

*Boarding-out Lunatics.*

LVII.—(1) Where application is made to the visiting committee of an asylum by any relative or friend of a pauper lunatic confined therein that he may be delivered over to the custody of such relative or friend, the committee may, upon being satisfied that the application has been approved by the guardians of the union to which the lunatic is chargeable or the local authority liable for his maintenance, and, in case the proposed residence is outside the limits of such union or the area subject to such local authority, then also by a justice having jurisdiction in the place where the relative or friend resides, and that the lunatic will be properly taken care of, order the lunatic to be delivered over accordingly. Maintenance for pauper lunatic taken charge of by relatives.

(2) Where any such order is made, the authority liable for the maintenance of the lunatic shall pay to the person to whom the lunatic is delivered such allowance for the maintenance of the lunatic, not exceeding the expenses which would be incurred on his account if he were in the asylum, as such authority on the recommendation of the visiting committee of the asylum from which the lunatic was delivered over thinks proper.

Amended by the addition of the words in brackets by the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 10. Sect. 56. Note. Sub-s. (3).

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51 & 52 Vict. c. 41.

(3) For the purposes of section twenty-four, sub-section (2) (*f*), of the Local Government Act, 1888, a lunatic boarded-out by the authorities of any asylum shall be deemed to be a lunatic maintained in an asylum.

*Removal of Lunatics.*

Removal of private patient by person authorized to discharge the patient.

LVIII. A person having authority to order the discharge of a private patient from an institution for lunatics, or of any single patient, may, with the previous consent in writing of a commissioner, by order in writing direct the removal of the patient to any institution for lunatics or to the charge of any person named in the order.

Removal of lunatics by commissioners.

LIX.—(1) Any two commissioners may by order direct the removal of a lunatic from an institution for lunatics to any other institution for lunatics.

(2) Upon the death of a person having charge of a single patient, the commissioners may, upon the application of the person having authority to discharge the patient, or if he does not apply within seven days after the death, upon their own motion, direct the patient to be removed to the charge of a person named in the order.

(3) Any two commissioners may at any time by order direct the removal of a lunatic from the charge of any person under whose care he is as a single patient, to the charge of any other person or to any institution for lunatics.

Removal of lunatic from workhouse by commissioners.

LX.—(1) Where, upon the visitation of a workhouse by any two or more commissioners, it appears to them that a lunatic or alleged lunatic therein is not a proper person to be allowed to remain in a workhouse, they may by order direct the lunatic to be removed to an institution for lunatics, and every such order shall have the same effect as a summary reception order.

(2) The guardians of the union to which the workhouse belongs may appeal against an order under this section within one month from the making thereof to a Secretary of State, who shall thereupon employ a commissioner, not being one of the commissioners who made the order, or some other person, to make a special visitation of the workhouse and to report to him upon the matter, and the decision of the Secretary of State upon such report shall be conclusive.

Removal of lunatic in a hospital or licensed house by guardians.

LXI.—(1) The authority liable for the maintenance of a pauper lunatic detained in a hospital or licensed house may make an order for the removal of the lunatic [to the workhouse

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Note. Sub-s. (1).

Amended by addition of the words within brackets by the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 11.

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of the union to which the lunatic is chargeable, or if the lunatic is chargeable to a county or borough, to the workhouse of the union from which he was sent to the hospital or licensed house], and may direct the mode of removal.

(2) Upon production to the manager of the hospital or house of a copy of the order he shall forthwith remove the patient or suffer him to be removed.

[Sect. 62. *Removal from workhouse by guardians:* Repealed by the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 29.]

Removal of lunatic boarded out into asylum.

LXIII. Where the visiting committee of an asylum has made an order for a pauper lunatic in the asylum to be delivered to the custody of a relative or friend, any two members of the committee may at any time, if they think fit, order the lunatic to be removed to the asylum.

Removal of pauper into county asylum.

LXIV. Any two visitors of an asylum may order a pauper lunatic chargeable to any union within any county or borough to which the asylum wholly or in part belongs, or to such county or to any county for the reception of the pauper lunatics whereof into that asylum there is a subsisting contract, to be removed to that asylum from any other institution for lunatics in which he may be detained.

Removal of pauper from asylum.

LXV.—(1) Any two visitors of an asylum may order a pauper lunatic in the asylum to be removed to some other institution for lunatics.

(2) A lunatic shall not be removed under this section without the consent in writing of two commissioners, except to—

(*a.*) An asylum within or belonging wholly or in part to the county within which the asylum from which the lunatic is removed is situate, or to the county in some parish of which the lunatic may have been adjudged to be settled; or

(*b.*) A hospital or licensed house within any such county as aforesaid; or

(*c.*) An institution for lunatics into which the lunatic can be received under a subsisting contract.

Directions as to execution of order for removal.

LXVI. The visitors making an order for the removal of a pauper lunatic may by the order require any relieving officer,

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Sect. 64.

As to contracts for the reception of pauper lunatics, see sects. 243, 269, *infra*.

Note.

Sect. 65.

As to adjudication of settlements, see sects. 288—298, *infra*; and as to contracts for the reception of pauper lunatics, see sects. 243, 269, *infra*.

Note.

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or other officer of the union, county, or borough to which the lunatic is chargeable, or may authorize any other person, to execute the same.

Restriction upon removal of paupers by two visitors.

LXVII. A pauper lunatic shall not be removed under any order for removal made by two visitors without a medical certificate signed by the medical officer of the institution for lunatics from which the patient is to be removed, certifying that he is in a fit condition of bodily health to be removed.

Removal of lunatic from workhouse by a justice.

LXVIII. Where a union is in more than one county, and the workhouse of the union is in one county, and the place from which a lunatic was sent to the workhouse is in another county, an order may be made by a justice for the county in which the workhouse is or a justice for the county from which the lunatic was sent, for the removal of the lunatic either to the asylum of the county in which the workhouse is or to the asylum of the county from which the lunatic was sent, and such latter order may be made notwithstanding that there may be an asylum of the county in which the workhouse is, and there may not be a deficiency of room or any other special circumstances by reason whereof the lunatic cannot conveniently be taken to that asylum.

Restriction as to institution to which pauper may be removed.

LXIX. Except under the provisions of the preceding section a pauper lunatic shall not be removed under an order of removal to any institution for lunatics into which he could not have been received under a reception order.

Removal orders to be in duplicate.

LXX.—(1) Every order for the removal of a lunatic from an institution for lunatics or from the charge of any person and the consent of the commissioners thereto, where required, shall be in duplicate. One duplicate shall be delivered to the manager of the institution for lunatics or the person from whose care the lunatic is removed, and the other to the manager of the institution for lunatics, or the person into whose care the lunatic is removed.

(2) Every such order, with such consent as aforesaid where required, shall be sufficient authority for the removal and reception of the lunatic, in accordance with the order.

(3) The manager of the institution from which, or the person from whose care the lunatic is removed under any such order, shall deliver, free of expense, a copy of the reception order and documents accompanying the same to the person executing the order for removal, to be by him delivered to the

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Sect. 68. Note.

Further provision is made by the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 6, for the removal of a lunatic from a workhouse which is situate in a county which does not include the union to which the workhouse belongs.

manager of the institution into which or the person into whose care the lunatic is removed. Sect. 70.

(4) Every such copy shall be certified under the hand of the person whose duty it is to deliver the same.

Removal of alien to his native country.

LXXI.—(1) Where an alien is detained as a lunatic, and his family or friends desire that he should be removed to the country of which he is a subject, the commissioners, upon application by any member of the family or by a friend of the alien, may inquire into the circumstances of the case and report thereon to a Secretary of State.

(2) A Secretary of State, if satisfied by such report that the person to whom the report relates is an alien and a lunatic, and that his removal is likely to be for his benefit, and that proper arrangements have been made for such removal and for his subsequent care and treatment, may, by warrant, direct the alien to be delivered to the person named in the warrant for the purpose of removal to the country of which he is a subject, and every such warrant shall be obeyed by the person or authority under whose charge the lunatic is.

(3) A warrant under this section shall be sufficient authority for the master of any vessel to receive and detain the lunatic on board the vessel, and to convey him to his destination.

*Discharge of Lunatics.*

Discharge of private patient.

LXXII.—(1) A private patient detained in an institution for lunatics, or under care as a single patient, shall be discharged if the person on whose petition the reception order was made by writing under his hand so directs.

(2) If that person is dead, or incapable by reason of insanity, absence from England, or otherwise, of signing an order for discharge, or, if a patient having been originally classified as a pauper is afterwards classified as a private patient, the person who made the last payment on account of the patient, or the husband or wife, or if there is no husband or wife, or the husband or wife is incapable as aforesaid, the father, or if there is no father, or he is incapable as aforesaid, the mother of the patient, or, if there is no mother, or she is incapable, then any one of the nearest of kin of the patient, may give the direction for his discharge.

(3) If there is no person qualified to direct the discharge of a patient under this section, or no person able or willing to act, the commissioners may order his discharge.

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Sect. 72. Note. Sub-s. (1).

The order for discharge must be unambiguous; a mere request to the manager of the institution that he will discharge the patient "as soon as you may think it advisable" is not such an order of discharge as would render the manager of the institution liable in damages for detaining the patient after its receipt (*Lowe* v. *Fox*, 12 App. Cas. 206; 56 L. J. Q. B. 480; 56 L. T. 406; 51 J. P. 468).

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Discharge of pauper in hospital or house.

LXXIII. The authority liable for the maintenance of a pauper lunatic detained in a hospital or licensed house may make an order for the discharge of the lunatic, and may direct the mode of discharge, and upon production to the manager of the hospital or house of a copy of the order he shall forthwith discharge the patient, or suffer him to be discharged.

Restriction on discharge.

LXXIV. A patient shall not be discharged under the provisions of the two preceding sections if the medical officer of the institution, or, in the case of a single patient, his medical attendant, certifies in writing that the patient is dangerous and unfit to be at large, together with the grounds on which the certificate is founded, unless two of the visitors of the asylum, or the commissioners visiting the hospital or house, or the visitors of the house, or in the case of a single patient, one of the commissioners, after the certificate has been produced, consent in writing to the patient's discharge.

Discharge by commissioners of patients in hospital or licensed house, and of single patients.

LXXV. Two of the commissioners, one of whom shall be a medical and the other a legal commissioner, may visit a patient detained in any hospital or licensed house, or as a single patient, and may, within seven days after their visit, if the patient appears to them to be detained without sufficient cause, make an order for his discharge.

Notice of order of discharge.

LXXVI.—(1) The commissioners when they have made any order of discharge shall forthwith serve the same upon the manager of the institution for lunatics where the patient is detained, or upon the person having charge of the patient as a single patient, and shall give notice of such order,—

(*a.*) In the case of a private patient, to the person on whose petition the reception order was made or who made the last payment on account of the patient:

(*b.*) In the case of a pauper, to the authority liable for his maintenance.

(2) Any person who has been duly served with any such order of discharge and detains a patient after the date of discharge appointed thereby shall be guilty of a misdemeanour.

Visitors may discharge patients in asylums.

LXXVII.—(1) Any three visitors of an asylum may order the discharge of any person detained therein whether he is recovered or not.

(2) Any two such visitors, with the advice in writing of the medical officer, may order the discharge of any person detained in the asylum.

Discharge by visitors of lunatics in licensed houses.

LXXVIII.—(1) If after two visits by two visitors to a house licensed by justices, it appears to the visitors that any patient

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is detained without sufficient cause, the visitors may make such order as they think fit for his discharge.

(2) In the case of visits under this section, one of the visitors shall be a medical practitioner.

(3) The two visits shall be made by the same visitors at an interval of not less than seven days.

(4) Seven days' notice of the second visit shall be given either by post or by an entry in the patients' book to the manager of the house, who shall forthwith send by post a copy of the notice, in the case of a private patient to the person on whose petition the reception order was made, or by whom the last payment on account of the lunatic was made, and in the case of a pauper to the authority liable for his maintenance, and also to the clerk of the visitors of the house.

(5) The visitors before making an order under this section shall examine the medical officer of the house as to his opinion respecting the fitness of the patient to be discharged, if he tenders himself for examination.

(6) If after such examination an order for discharge is made, and the medical officer furnishes to the visitors a statement of his reasons against the discharge, they shall forthwith send the statement to the clerk of the visitors.

(7) This section shall not apply to a lunatic so found by inquisition.

(8) Every order under this section shall be signed by the visitors by whom it is made.

Discharge of pauper on application of relative or friend.

LXXIX. When application is made to the visiting committee of an asylum by a relative or friend of a pauper lunatic confined therein, requiring that he may be delivered over to the custody and care of such relative or friend, any two of the visitors may, if they think fit, discharge the lunatic upon the undertaking of the relative or friend, to their satisfaction, that the lunatic shall be no longer chargeable to any union, county, or borough, and shall be properly taken care of and prevented from doing injury to himself or others.

Visiting committee may send notice of intention to discharge pauper

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LXXX.—(1) When the visitors of an asylum order a pauper lunatic confined therein to be discharged, except on the application of a relative or friend, they may, when they think fit, send a notice in writing, signed by the clerk of the asylum, by post or otherwise, of their intention to discharge the lunatic

Note. Sub-s. (1).

The last words in this sub-section were added to meet the difficulty suggested in *Liverpool, Overseers*, v. *Lancaster Lunatic Asylum*, 5 Ex. D. 215; 42 L. T. 591; 28 W. R. 600; 44 J. P. 397, in cases where a pauper's settlement cannot be ascertained and he has been adjudged to be chargeable to the county or borough from which he was sent under sect. 290, *infra*.

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lunatic to relieving officer or clerk of local authority.

to a relieving officer of the union to which the lunatic is chargeable, or to the clerk of the local authority liable for his maintenance.

(2) Upon receipt of such notice, the relieving officer or clerk shall cause the lunatic upon his discharge to be forthwith removed to the workhouse of the union to which the lunatic is chargeable, or, if the lunatic is chargeable to a county or borough, to the workhouse of the union from which he was sent to the asylum.

Discharge from workhouse by guardians.

LXXXI. The guardians of the union to which a workhouse belongs may make an order for the discharge of any lunatic detained therein.

Copies of reception order and other documents to be furnished.

LXXXII. The secretary to the commissioners shall, upon the discharge of a person who considers himself to have been unjustly confined as a lunatic, furnish to him upon his request, free of expense, a copy of the reception order and certificate or certificates upon which he was confined, and if the order was made upon petition, also of the petition and statement of particulars upon which the reception order was made.

*Recovery of Patient.*

Notice to be given on recovery of a patient.

LXXXIII.—(1) The manager of every hospital and licensed house, and a person having charge of a single patient, shall forthwith, upon the recovery of a patient, send notice thereof in the case of a patient not a pauper to the person on whose petition the reception order was made, or by whom the last payment on account of the patient was made, and in the case of a pauper to the guardians of his union, or if a local authority is liable for his maintenance to the clerk of the local authority.

(2) The notice shall state that unless the patient is removed within seven days from the date of the notice he will be discharged.

(3) In case the patient is not removed within seven days from the date of the notice he shall be forthwith discharged.

*Inquiry into Cause of Death.*

Coroner to inquire into death, if necessary.

LXXXIV. Every coroner shall upon receiving notice of the death of a lunatic within his district, if he considers that any reasonable suspicion attends the cause and circumstances of the death, summon a jury to inquire into the same.

*Escape and Recapture.*

Escape and recapture.

LXXXV. If any person detained as a lunatic under this Act escapes, he may, without a fresh order and certificate or

certificates, be retaken at any time within fourteen days after his escape by the manager of the institution for lunatics or the master of the workhouse in which he was detained, or any officer, or servant thereof respectively, or by the person in whose charge he was as a single patient, or by anyone authorized in writing by such manager, master, or person.

Escape from England into Scotland or Ireland.

LXXXVI.—(1) If any person detained as a lunatic under lawful authority in England escapes into Scotland or Ireland, notice of the escape shall as soon as practicable be given to the commissioners, who may, by writing under their seal, authorize an application to be made by such person as they think fit to any justice having jurisdiction in the place where the lunatic was so detained for a warrant authorizing such person to retake the lunatic and bring him back to such place.

(2) Such warrant, when granted, shall in Scotland or Ireland as well as in England be sufficient *primâ facie* evidence that the person stated therein to have escaped was so detained as a lunatic under lawful authority as aforesaid, and of the fact of his escape, and shall be sufficient authority for any sheriff in Scotland, or for any justice in Ireland, to countersign the same; and any such warrant so countersigned may be executed in Scotland, or Ireland, as the case may be, by retaking such lunatic and bringing him from thence, to the intent that he may be restored to the custody from which he escaped.

Escape from Scotland into England or Ireland.

LXXXVII.—(1) If any person detained as a lunatic under lawful authority in Scotland escapes into England or Ireland, notice of the escape shall as soon as practicable be given to the General Board of Commissioners in Lunacy for Scotland, who may, by writing under the hand of one of such commissioners, authorize an application to be made by such person as they think fit to any sheriff having jurisdiction in the place where the lunatic was so detained for a warrant authorizing such person to retake the lunatic and bring him back to such place.

(2) Such warrant, when granted, shall in England and Ireland as well as in Scotland be sufficient *primâ facie* evidence that the person stated therein to have escaped was so detained as a lunatic under lawful authority as aforesaid, and of the fact of his escape, and shall be sufficient authority for any justice in England or Ireland to countersign the same; and any such warrant so countersigned may be executed in England or Ireland, as the case may be, by retaking such lunatic and bringing him from thence, to the intent that he may be restored to the custody from which he escaped.

(3) For the purposes of this section a writing purporting to be signed by one of the Commissioners in Lunacy for Scotland shall be deemed to have been signed by him until the contrary is proved.

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Escape from Ireland into England or Scotland.

LXXXVIII.—(1) If any person detained as a lunatic under lawful authority in Ireland escapes into England or Scotland, notice of the escape shall as soon as practicable be given, where such person has been so detained by order of the Lord Chancellor for the time being entrusted by the sign manual of Her Majesty with the care and commitment of the custody of the persons and estates of lunatics in Ireland, to the registrar in lunacy, and in other cases to the inspectors of lunatics in Ireland, who may, by writing under the hand of the said registrar, or one of the said inspectors, as the case may be, authorize an application to be made by such person as they think fit to any justice having jurisdiction in the place where the lunatic was so detained for a warrant authorizing such person to retake the lunatic and bring him back to such place.

(2) Such warrant, when granted, shall in England and Scotland as well as in Ireland be sufficient *primâ facie* evidence that the person stated therein to have escaped was so detained as a lunatic under lawful authority as aforesaid, and of the fact of such escape, and shall be sufficient authority for any justice in England, and for any sheriff in Scotland, to countersign the same; and any such warrant so countersigned may be executed in England or Scotland, as the case may be, by retaking the lunatic and bringing him from thence, to the intent that he may be restored to the custody from which he escaped.

(3) For the purposes of this section a writing purporting to be signed by the registrar in lunacy, or one of the inspectors of lunatics in Ireland, as the case may be, shall be deemed to have been signed by him unless the contrary is proved.

Limit of time of retaking lunatic.

LXXXIX. A warrant, granted under any of the three preceding sections, shall not authorize the retaking of a lunatic after the expiration of the time during which he could have been retaken according to the law in force in the place where he was detained as a lunatic if he had remained there after his escape.

## PART III.

### JUDICIAL INQUISITION AS TO LUNACY.

[This part of the Act has no practical bearing upon pauper lunatics.]

*The Inquisition.*

Order for inquisition as to lunacy.

XC.—(1) The judge in lunacy may upon application by order direct an inquisition whether a person is of unsound mind and incapable of managing himself and his affairs.

(2) Where the alleged lunatic is within the jurisdiction, he shall have notice of the application and shall be entitled to demand an inquiry before a jury.

(3) Upon the hearing of the application, the alleged lunatic may withdraw any demand for a jury made by him. Sect. 90.

Demand of a jury by alleged lunatic.

XCI. Where the alleged lunatic demands a jury, the judge in lunacy shall in his order for inquisition direct the return of a jury, unless he is satisfied, by personal examination of the alleged lunatic, that he is not mentally competent to form and express a wish for an inquisition before a jury; and the judge may, where he deems it necessary, and for the purpose of personal examination, require the alleged lunatic to attend him at such convenient time and place as he may appoint.

Cases where a jury may be dispensed with.

XCII. Where the alleged lunatic does not demand a jury, or the judge in lunacy is satisfied by a personal examination that he is not mentally competent to form and express a wish in that behalf, and it appears to the judge, upon consideration of the evidence, and of the circumstances of the case, to be unnecessary or inexpedient that the inquisition should be before a jury, and he accordingly does not in his order for inquisition direct the return of a jury, then the masters shall, without a jury, personally examine the alleged lunatic, and take such evidence, upon oath or otherwise, and call for such information as they think fit or the judge directs, in order to ascertain whether or not the alleged lunatic is of unsound mind, and shall certify their finding thereon.

Jury to be had, if masters certify that it is expedient.

XCIII. Where the judge in lunacy does not in his order for inquisition direct the return of a jury, but the masters, upon consideration of the evidence, certify that in their opinion an inquisition before a jury is expedient, they shall, without further order, issue their precept to the sheriff, and shall proceed in like manner in all respects, and their proceedings shall be as valid and effectual as if the judge had directed the return of a jury in the first instance.

Inquiries before a jury may be made by means of an issue in the High Court.

XCIV. — (1) Wherever the judge in lunacy orders an inquisition before a jury, he may by his order direct an issue to be tried in the High Court, and the question in such issue shall be, whether the alleged lunatic is of unsound mind and incapable of managing himself or his affairs; and the provisions of this Act with respect to commissions of lunacy, and orders for inquisition to be tried by a jury, and the trial thereof, and the constitution of the jury, shall apply to any issue to be directed as aforesaid, and the trial thereof, and subject thereto and to the provisions of this Act such issue and the trial thereof shall be regulated by the Rules of the Supreme Court for the time being in force relating to the trial of issues of fact by a

The provisions of this sub-section are extended to all inquisitions by the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 26. Sect. 92. Note.

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jury, and the verdict upon any such issue finding the alleged lunatic to be of unsound mind and incapable of managing himself or his affairs shall have the same effect as an inquisition under this Act.

(2) On the trial of every such issue the alleged lunatic shall, if he is within the jurisdiction, be examined before the evidence is taken, and at the close of the proceedings, before the jury consult as to their verdict, unless the judge who tries the issue otherwise directs; and such examinations shall take place either in open court or in private as such judge directs.

Certificate of masters without a jury to have the force and effect of an inquisition.

XCV. Where the masters certify that the alleged lunatic is of unsound mind, and incapable of managing himself or his affairs, or that he is of sound mind, and capable of managing his affairs, the certificate shall have the same effect as an inquisition taken upon the oath of a jury.

Jury to be had if lunatic out of jurisdiction.

XCVI. Where the alleged lunatic is not within the jurisdiction it shall not be necessary to give him notice of the application for inquisition, and the inquisition shall be before a jury.

Number of jury.

XCVII. The Lord Chancellor may, by order, regulate the number of jurors to be sworn, but so that every inquisition upon the oath of a jury be found by the oaths of twelve men, at least.

Nature and limit of inquisitions.

XCVIII.—(1) The inquisition shall be confined to the question whether or not the alleged lunatic is at the time of the inquisition of unsound mind, and incapable of managing himself or his affairs, and no evidence as to anything done or said by him, or as to his demeanour or state of mind at any time, being more than two years before the time of the inquisition, shall be receivable in proof of insanity, or on the trial of any traverse of an inquisition, unless the person executing the inquisition otherwise directs.

(2) If upon such inquisition it appears that the alleged lunatic is of unsound mind, so as to be incapable of managing his affairs, but that he is capable of managing himself, and is not dangerous to himself or to others, it may be so specially found and certified.

Power of person executing inquiry.

XCIX. The person executing an inquisition [*with a jury*] shall, while so employed, have all the powers, authorities, and discretion of a judge of the High Court.

Inquisition may be ordered

C. Where the commissioners report to the Lord Chancellor that they are of opinion that the property of any person

Sect. 99. Note.

The words within brackets are repealed by the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 29.

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on report of commissioners.

detained or taken charge of as a lunatic, but not so found by inquisition, is not duly protected, or that the income thereof is not duly applied for his benefit, or to the same effect, the report shall be filed with the masters, and shall be deemed to be an application for inquisition supported by evidence, and the alleged lunatic shall have notice of the report from such person as the judge in lunacy directs, and the case shall proceed and be conducted as nearly as may be in all respects as is herein-before directed upon an application for inquisition.

*Traverse and Supersedeas of an Inquisition.*

Applications for traverse to be made within a limited time.

CI.—(1) Any person desiring to traverse an inquisition, not being a verdict upon an issue tried in the High Court, may, within three months next after the day of the return of the inquisition, apply for that purpose to the judge in lunacy.

(2) The judge shall hear and determine the application, and shall in his order upon it for a traverse limit a time, not exceeding six months from the date of the order, within which the person desiring to traverse and all other proper parties are to proceed to trial of the traverse.

(3) The judge may by the same or any other order direct that the person desiring to traverse, not being the person the object of the inquisition, shall within three weeks next after the date of the order, give sufficient security to and to the satisfaction of the masters for all proper parties proceeding to trial within the time to be limited as aforesaid.

Persons not proceeding to trial within limited time barred.

CII. Every person who does not within the appointed time apply for a traverse, or who refuses or neglects to give such security as aforesaid, or who does not proceed to trial within the appointed time, shall be absolutely barred of the right of traverse: Provided that the judge in lunacy may, under the special circumstances of any particular case, extend the time upon such terms as he thinks just.

Judge may direct new trials.

CIII. If the judge in lunacy is dissatisfied with the verdict returned upon a traverse, he may order one or more new trial or trials thereon, as he thinks fit; but no person shall be admitted to traverse oftener than once.

New trial of an issue.

CIV. A traverse of a verdict upon an issue tried in the High Court shall not be allowed, but the judge in lunacy may, if he thinks fit, upon application within three months next after the trial of any such issue, order a new trial of the issue, or a new inquisition as to the insanity of the alleged lunatic, subject to such directions and upon such conditions as to the judge may seem proper.

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Commission may be superseded on conditions.

CV. If it appears to the judge in lunacy that it is not expedient or for the benefit of the lunatic that the commission should be unconditionally superseded, but that the same should be superseded on terms and conditions, he may, upon the consent of the lunatic and any other persons whose consent he deems necessary, order the commission to be superseded upon such terms and conditions as he thinks proper, and the judge may make such orders as he thinks fit for giving effect to such terms and conditions.

Power to supersede inquisition as regards commitment of person.

CVI.—(1) The judge in lunacy, if satisfied by a report of the commissioners, or of one of the Chancery visitors, or on any other evidence, that a lunatic so found by inquisition is cured or capable of managing himself, and not dangerous to himself or others, though incapable of managing his affairs, may, if he thinks it desirable that the ordinary proceedings for a *supersedeas* should not be insisted on, by order supersede the inquisition, so far as the same finds that the lunatic is incapable of managing himself, and rescind or vary any order for the commitment of the person of the lunatic.

(2) An order under this section may be made on such terms and conditions as the judge thinks fit.

(3) Notice of an order under this section shall be forthwith given to the committee of the person of the lunatic, and also to the person under whose care the lunatic is.

*Transmission of Inquisition and Supersedeas to Ireland and England.*

Transmission of inquisition and *supersedeas* to Ireland and England.

CVII. Where it is desired that an inquisition taken, or a writ of *supersedeas* issued in England or Ireland, should be acted upon in Ireland or England, the proper officer may, under order of the judge in lunacy in England, or the Lord Chancellor for the time being entrusted by the sign manual of Her Majesty with the care and commitment of the custody of the persons and estates of lunatics in Ireland, as the case may be, transmit a transcript of the record of the inquisition, or of the writ, to the registrar in lunacy in Ireland or the High Court in England, as the case may be, which transcript shall thereupon be entered and be of record there respectively, and shall, when so entered of record, and if and so long only as the Lord Chancellor entrusted as aforesaid in Ireland and the judge in lunacy in England, as the case may be, thinks fit, be acted upon by them respectively, and be of the same validity and effect, to all intents and purposes, as if the inquisition had been taken or the writ issued in Ireland or England respectively.

## PART IV.

## JUDICIAL POWERS OVER PERSON AND ESTATE OF LUNATICS.

### *The Judge in Lunacy.*

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Jurisdiction of judge in lunacy.

CVIII.—(1) The jurisdiction of the judge in lunacy under this Act shall be exercised either by the Lord Chancellor for the time being entrusted by the sign manual of Her Majesty with the care and commitment of the custody of the persons and estates of lunatics, acting alone or jointly with any one or more of such judges of the Supreme Court as may for the time being be entrusted as aforesaid, or by any one or more of such judges as aforesaid.

(2) The judge in lunacy may make orders for the custody of lunatics so found by inquisition and the management of their estates, and every such order shall take effect as to the custody of the person immediately, and as to the custody of the estate upon the master's certificate of completion of the committee's security.

(3) Where upon the inquisition it is specially found or certified that the person to whom the inquisition relates is of unsound mind so as to be incapable of managing his affairs, but that he is capable of managing himself, and is not dangerous to himself or to others, the judge in lunacy may make such orders as he thinks fit for the commitment of the estate of the lunatic and its management, including all proper provisions for the maintenance of the lunatic, but it shall not be necessary, unless in the discretion of the judge it appears proper to do so, to make any order as to the custody or commitment of the person of the lunatic.

(4) Any order under this section may be made notwithstanding proceedings are pending for a traverse or new trial, and any person acting upon an order so made shall be indemnified as effectually as if there had been no right of traverse or new trial.

Costs.

CIX. The costs of all proceedings for the purpose of ascertaining whether a person is a lunatic, and of all proceedings in the matter of a lunatic shall be in the discretion of the judge in lunacy, who may order all or any of such costs to be paid by the lunatic or alleged lunatic, or to be charged upon and paid out of his estate, or such part thereof as the judge thinks fit, or by any other party to the proceedings; and in the case of the death of the lunatic or alleged lunatic, an order for payment of costs out of his estate may be made within six years next after the right to recover the costs has accrued, and every such order shall have the effect of an order of the High Court.

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Sect. 108. Note. Sub-s. (1).

By the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 27 (1), subject to rules in lunacy, the jurisdiction of the judge in lunacy as regards administration and management may be exercised by the masters.

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Powers to extend to British possessions.

CX. The powers and authorities given by this Act to the judge in lunacy shall extend to property within any British possession.

*The Masters.*

Masters in lunacy.

CXI.—(1) There shall continue to be masters in lunacy as heretofore, and they shall, subject to the provisions of this Act and the rules in lunacy, execute and perform the same powers and duties as heretofore, and shall perform such other duties for the benefit of lunatics and their estates as the Lord Chancellor may direct.

(2) The powers and authorities of the masters shall be joint and several, and they shall execute commissions and conduct inquiries connected with lunatics or their estates, and perform all other duties committed to them, either separately or together, and at such places, within such times, and in such manner as the rules in lunacy, and, subject thereto, as the judge in lunacy may by any special order direct.

(3) A master must be a barrister of not less than ten years standing, and shall be appointed by the Lord Chancellor.

(4) A master shall, before being capable of acting, make before the Lord Chancellor, in the manner now used, the declaration to be made by a master set forth in the first schedule.

(5) The masters shall have such clerks and officers as the Lord Chancellor may, with the concurrence of the Treasury as to number and salaries, determine.

(6) The salaries of the masters, their clerks and officers, and their expenses to the amount sanctioned by the Treasury, shall be paid out of monies provided by Parliament.

Commission of inquiry.

CXII. A general commission of inquiry, with such variations as may be expedient, may from time to time be issued in duplicate under the Great Seal, directed to the masters by name, jointly and severally, who shall by virtue thereof proceed, in each case of alleged lunacy concerning which the judge in lunacy orders them to inquire, in like manner and with all the like powers and authorities (subject to the provisions in this Act contained) as heretofore.

Special commission may issue.

CXIII. The Lord Chancellor may issue a commission specially to any person or persons alone or in addition to the masters, or one of them, if upon any occasion he thinks it proper to do so; and the provisions of this Act so far as applicable shall extend to every commission so issued specially.

Power to summon witnesses.

CXIV. The masters may administer any oath and take any affidavit and may summon any person to give evidence before them, and every person so summoned shall be bound to attend as required by the summons.

*Expiration of Orders for the Commitment of Person.*

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Order for custody of person of lunatic so found to determine unless continued.

CXV.—(1) The medical attendant of every lunatic so found by inquisition shall, before the expiration of one, three, and six years respectively from the commencement of this Act, and before the expiration of every subsequent period of five years after the expiration of six years from the commencement of this Act, send to the masters a report as to the mental and bodily condition of the patient, with a certificate under his hand, certifying, if it is the fact, that the patient is still of unsound mind and a proper person to be detained under care and treatment.

(2) If, before the expiration of any of the periods hereinbefore mentioned, such report and certificate are not sent to the masters, they shall inquire as to the omission, and unless they are satisfied that the lunatic is still of unsound mind, the order for the commitment of the person of the lunatic as to whom such report and certificate are not sent shall determine at the expiration of such period; but nothing herein contained shall affect the commitment of the estate.

(3) A master may, by order under his hand, extend the time within which any report and certificate under this section is to be sent to the masters, and if the time is so extended, the order for commitment of the person of the lunatic as to whom the time is so extended shall continue in force until the expiration of the extended time, but such extended time shall not exceed six months.

(4) Where any order for commitment of the person of a lunatic has determined under this section, the masters shall forthwith give notice of such determination to the committee of the person of the lunatic and to the person under whose care the lunatic is.

*Management and Administration.*

Extent of the administrative powers of the judge in lunacy.

CXVI.—(1) The powers and provisions of this part of this Act relating to management and administration apply:—

(*a.*) To lunatics so found by inquisition;

(*b.*) To lunatics not so found by inquisition for the protection or administration of whose property any order has been made before the commencement of this Act;

(*c.*) To every person lawfully detained as a lunatic though not so found by inquisition;

(*d.*) To every person not so detained and not found a lunatic by inquisition, with regard to whom it is proved to the satisfaction of the judge in lunacy that such person is through mental infirmity arising from disease or age incapable of managing his affairs;

(*e.*) To every person with regard to whom it is proved to the

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satisfaction of the judge in lunacy by the certificate of a master, or by the report of the commissioners, or by affidavit or otherwise, that such person is of unsound mind and incapable of managing his affairs, and that his property does not exceed two thousand pounds in value, or that the income thereof does not exceed one hundred pounds per annum;

(*f.*) To every person with regard to whom the judge is satisfied by affidavit or otherwise that such person is or has been a criminal lunatic and continues to be insane and in confinement.

(2) In the case of any of the above-mentioned persons not being lunatics so found by inquisition, such of the powers of this Act as are made exerciseable by the committee of the estate under order of the judge shall be exercised by such person in such manner and with or without security as the judge may direct, and any such order may confer upon the person therein named authority to do any specified act, or exercise any specified power, or may confer a general authority to exercise on behalf of the lunatic, until further order, all or any of such powers without further application to the judge.

(3) Every person appointed to do any such act or exercise any such power shall be subject to the jurisdiction and authority of the judge as if such person were the committee of the estate of the lunatic so found by inquisition.

(4) The powers of this Act relating to management and administration shall be exerciseable in the discretion of the judge for the maintenance or benefit of the lunatic or of him and his family, or where it appears to be expedient in the due course of management of the property of the lunatic.

(5) Nothing in this Act shall subject a lunatic's property to claims of his creditors further than the same is now subject thereto by due course of law.

Power to raise money for certain purposes.

CXVII.—(1) The judge may order that any property of the lunatic, whether present or future, be sold, charged, mortgaged, dealt with, or disposed of as the judge thinks most expedient for the purpose of raising or securing, or repaying with or without interest, money which is to be or which has been applied to all or any of the purposes following:

(*a.*) Payment of the lunatic's debts or engagements;

(*b.*) Discharge of any incumbrance on his property;

(*c.*) Payment of any debt or expenditure incurred for the lunatic's maintenance or otherwise for his benefit;

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Note. Sub-s. (2).

By the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 27 (4), the provisions of this sub-section apply to the persons named in sub-sect. (1) (*d*) of this section, though not lunatics.

(*d.*) Payment of or provision for the expenses of his future maintenance.

(2) In case of a charge or mortgage being made under this Act for the expenses of future maintenance, the judge may direct the same to be payable, either contingently if the interest charged is a contingent or future one, or upon the happening of the event if the interest is depending on an event which must happen, and either in a gross sum or in annual or other periodical sums, and at such times and in such manner as he thinks expedient.

Charge for permanent improvements.

CXVIII.—(1) The judge may order that the whole or any part of any monies expended or to be expended under his order for the permanent improvement, security, or advantage of the property of the lunatic, or of any part thereof, shall, with interest, be a charge upon the improved property or any other property of the lunatic, but so that no right of sale or foreclosure during the lifetime of the lunatic be conferred by the charge.

(2) The interest shall be kept down during the lunatic's lifetime, out of the income of his general estate, as far as the same is sufficient to bear it.

(3) The charge may be made either to some person advancing the money, or if the money is paid out of the lunatic's general estate, to some person as a trustee for him, as part of his personal estate.

Power to dissolve partnership.

CXIX. Where a person being a member of a partnership becomes lunatic the judge may, by order, dissolve the partnership.

Powers exerciseable by committee under order of judge.

CXX. The judge may, by order, authorize and direct the committee of the estate of a lunatic to do all or any of the following things:

(*a.*) Sell any property belonging to the lunatic;

(*b.*) Make exchange or partition of any property belonging to the lunatic or in which he is interested, and give or receive any money for equality of exchange or partition;

(*c.*) Carry on any trade or business of the lunatic;

(*d.*) Grant leases of any property of the lunatic for building, agricultural, or other purposes;

(*e.*) Grant leases of minerals forming part of the lunatic's property, whether the same have been already worked or not, and either with or without the surface or other land;

(*f.*) Surrender any lease and accept a new lease;

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(*g.*) Accept a surrender of any lease and grant a new lease;

(*h.*) Execute any power of leasing vested in a lunatic having a limited estate only in the property over which the power extends;

(*i.*) Perform any contract relating to the property of the lunatic entered into by the lunatic before his lunacy;

(*j.*) Surrender, assign, or otherwise dispose of with or without consideration any onerous property belonging to the lunatic;

(*k.*) Enter into any agreement touching the patronage of augmented cures under the Act one George the First, chapter ten, which the lunatic might have entered into if he had been of sound mind;

(*l.*) Exercise any power or give any consent required for the exercise of any power where the power is vested in the lunatic for his own benefit or the power of consent is in the nature of a beneficial interest in the lunatic.

Property exchanged and renewed lease to be to same uses as before.

CXXI. Any property taken in exchange and any renewed lease accepted on behalf of a lunatic under the powers of this Act shall be to the same uses and be subject to the same trusts, charges, incumbrances, dispositions, devises, and conditions as the property given in exchange or the surrendered lease was or would but for the exchange or surrender have been subject to.

Extent of leasing power.

CXXII.—(1) The power to authorize leases of a lunatic's property under this Act shall extend to property of which the lunatic is tenant in tail, and every lease granted pursuant to any order under this Act shall bind the issue of the lunatic and all persons entitled in remainder and reversion expectant upon the estate tail of the lunatic including the Crown, and every person to whom from time to time the reversion expectant upon the lease belongs upon the death of the lunatic shall have the same rights and remedies against the lessee, his executors, administrators, and assigns, as the lunatic or his committee would have had.

(2) Leases authorized to be granted and accepted by or on behalf of a lunatic under this Act may be for such number of lives or such term of years, at such rent and royalties, and subject to such reservations, covenants, and conditions as the judge approves.

(3) Fines or other payments on the renewal of leases may be paid out of the lunatic's estate, or charged with interest on the leasehold property.

Lunatic's interest in property not to be altered.

CXXIII.—(1) The lunatic, his heirs, executors, administrators, next of kin, devisees, legatees, and assigns, shall have

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the same interest in any monies arising from any sale, mortgage, or other disposition, under the powers of this Act which may not have been applied under such powers, as he or they would have had in the property the subject of the sale, mortgage, or disposition, if no sale, mortgage, or disposition, had been made, and the surplus monies shall be of the same nature as the property sold, mortgaged, or disposed of.

(2) Monies received for equality of partition and exchange, or under any lease of unopened mines, and all fines, premiums, and sums of money received upon the grant or renewal of a lease, where the property the subject of the partition, exchange, or lease was real estate of the lunatic, shall, subject to the application thereof for any purposes authorized by this Act, as between the representatives of the real and personal estate of the lunatic, be considered as real estate, except in the case of fines, premiums, and sums of money received upon the grant or renewal of leases of property of which the lunatic was tenant for life, in which case the fines, premiums, and sums of money shall be personal estate of the lunatic.

(3) In order to give effect to this section the judge may direct any money to be carried to a separate account, and may order such assurances and things to be executed and done as he thinks expedient.

Power to carry orders into effect.

CXXIV. The committee of the estate, or such person as the judge approves, shall in the name and on behalf of the lunatic execute and do all such assurances and things for giving effect to any order under this Act as the judge directs, and every such assurance and thing shall be valid and effectual, and shall take effect accordingly, subject only to any prior charge to which the property affected thereby at the date of the order is subject.

Admittance to copyholds.

CXXV. Where a lunatic so found by inquisition is entitled to be admitted tenant of copyhold land, the committee of his estate may appear at one of the three next courts holden for the manor (for the holding whereof the usual notice shall be given), and there offer himself to be admitted tenant in the name and on behalf of the lunatic; and in default of his appearance, or of his acceptance of admittance, the lord or his steward may, after three courts duly holden, and proclamations thereat regularly made, at any subsequent court appoint any fit person to be attorney for the lunatic for that purpose only, and by that attorney admit the lunatic tenant of the land, according to such estate as the lunatic is legally entitled to therein.

Fines upon admittance.

CXXVI.—(1) The lord or his steward may upon the admittance impose such fine as might have been imposed if the lunatic had been of sound mind, which fine may be demanded

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by the lord's bailiff or agent, by a note in writing signed by the lord or his steward, to be left with the committee of the estate, or with the tenant or occupier of the land.

(2) If the fine is not paid or tendered to the lord or his steward within three months after demand, then the lord may enter upon and hold the land, and receive the rents and profits thereof, (but without liberty to fell any timber standing thereon,) until he is thereby fully paid the fine, with his reasonable costs and charges of raising the same, and of obtaining the possession of the land, although the lunatic die before the fine and costs and charges have been raised.

(3) The lord shall yearly, on demand by the person entitled to the surplus rents and profits, after payment of the fine and costs and charges, or by the person then entitled to the land, render an account of the rents and profits received by him or on his behalf, and shall pay the surplus, if any, to the person entitled thereto.

(4) As soon as the fine and costs and charges have been fully paid, or if after the lord's entry, the fine and costs and charges are lawfully tendered to him, then the lunatic, by the committee of his estate or other the person entitled, may enter upon and hold the land, according to his estate or interest therein; and the lord shall deliver possession thereof accordingly, and if he refuse so to do he shall make satisfaction to the person kept out of possession for all the damages which he thereby sustains, and all his costs and charges of recovering possession.

(5) If the committee pays the fine and costs and charges, then he, his executors and administrators, may enter upon and hold the land, and receive the rents and profits thereof until payment thereout of the amount disbursed upon that account, although the lunatic die before reimbursement.

(6) If the fine imposed is not warranted by the custom of the manor, or is unlawful, the lunatic may controvert its legality, as if this Act had not been passed; and no lunatic so found by inquisition shall forfeit any land for his neglect or refusal to appear at any court, or to be admitted thereto, or to pay the fine imposed upon his admittance.

Where lunacy temporary money may be applied for temporary maintenance.

CXXVII.—(1) Where it appears to the judge that there is reason to believe that the unsoundness of mind of any lunatic so found by inquisition is in its nature temporary, and will probably be soon removed, and that it is expedient that temporary provision should be made for the maintenance of the lunatic, or of the lunatic and the members of his immediate family who are dependent upon him for maintenance, and that any sum of money arising from or being in the nature of income or of ready money belonging to the lunatic, and standing to his account with a banker or agent, or being in the

hands of any person for his use, is readily available and may be safely and properly applied in that behalf, the judge may allow thereout such amount as he thinks proper for the temporary maintenance of the lunatic, or of the lunatic and the members of his immediate family who are dependent upon him for maintenance, and may, instead of proceeding to order a grant of the custody of the estate, order or give liberty for the payment of any such sum of money as aforesaid, or any part thereof, to such person as, under the circumstances of the case, he thinks proper to intrust with the application thereof, and may direct the same to be paid to such person accordingly, and when received to be applied, and the same shall accordingly be applied, in or towards such temporary maintenance as aforesaid.

(2) The receipt in writing of the person to whom payment is to be made for any monies payable to him by virtue of an order under this section shall be a good discharge, and every person is hereby directed to act upon and obey every such order.

(3) The person receiving any money by virtue of an order under this section shall pass an account thereof before the masters, when required.

Committee may exercise power vested in lunatic in character of trustee or guardian.

CXXVIII. Where a power is vested in a lunatic in the character of trustee or guardian, or the consent of a lunatic to the exercise of a power is necessary in the like character, or as a check upon the undue exercise of the power, and it appears to the judge to be expedient that the power should be exercised or the consent given, the committee of the estate, in the name and on behalf of the lunatic, under an order of the judge, made upon the application of any person interested, may exercise the power or give the consent in such manner as the order directs.

Appointment of new trustees under power to have effect of appointments by High Court and like orders may be made as under Trustee Act, 1850.

CXXIX. Where under this Act the committee of the estate, under order of the judge, exercises, in the name and on behalf of the lunatic, a power of appointing new trustees vested in the lunatic, the person or persons who shall, after and in consequence of the exercise of the power, be the trustee or trustees, shall have all the same rights and powers as he or they would have had if the order had been made by the High Court; and the judge may in any such case, where it seems to him to be for the lunatic's benefit and also expedient, make any order respecting the property subject to the trust which might have been made in the same case under the Trustee Act, 1850, or any Act amending the same, on the appointment thereunder of a new trustee or new trustees.

Temporary provision for maintenance of lunatic.

CXXX. In any case where, pending the appointment of committees, it appears to the masters desirable that temporary provision should be made for the expenses of the maintenance

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or other necessary purposes or requirements of the lunatic, or any member of his family, out of any cash or available securities belonging to him in the hands of his bankers, or of any other person, the masters shall be at liberty by certificate to authorize such banker or other person to pay to the person to be named in such certificate such sum as they certify to be proper; and may by such certificate give any directions as to the proper application thereof for the lunatic's benefit by that person, who shall be accountable for the same as the masters direct.

*Powers as to Property in England, Scotland, and Ireland.*

Power to deal with property in England, Scotland, and Ireland.

CXXXI.—(1) The powers of management and administration of the estates of lunatics conferred by this Act shall, without an inquisition or other proceedings in Ireland, extend to the personal property in Ireland of a lunatic so found by inquisition in England where such personal property does not exceed two thousand pounds in value or the income thereof does not exceed one hundred pounds a year; and the like powers conferred by the Lunacy Regulation (Ireland) Act, 1871, shall, without an inquisition or other proceedings in England, extend to the personal property in England of a lunatic so found by inquisition in Ireland where such personal property or the income thereof does not exceed such amount as aforesaid.

(2) Where a person has been found lunatic by inquisition in England or Ireland, and has personal property in Scotland, the committee of the estate of the lunatic shall, without cognition or other proceedings in Scotland, have all the same powers as to such property, or the income thereof, as might be exercised by a tutor at law after cognition or a duly appointed *curator bonis* to a person of unsound mind in Scotland.

(3) Where a tutor at law after cognition or a *curator bonis* has been appointed to a lunatic in Scotland, who has personal property in England or Ireland, the tutor at law or *curator bonis* shall, without an inquisition or other proceedings in England or Ireland, have all the same powers as to such property, or the income thereof, as might be exercised by the committee of the estate of a lunatic, so found by inquisition in England or Ireland.

(4) The powers of management and administration conferred by this Act in cases where the property of a person of unsound mind does not exceed two thousand pounds in value, or the income thereof does not exceed one hundred pounds per annum, and the powers conferred by section sixty-eight of the Lunacy Regulation (Ireland) Act, 1871, shall extend to the property in Ireland or England, as the case may be, of the lunatic where the total value of the property in England and Ireland does not exceed two thousand pounds in value, or the income thereof does not exceed one hundred pounds a year.

34 & 35 Vict. c. 22, ss. 68.

*Power of County Court Judge.* Sect. 132.

Power to deal with property of small amount.

CXXXII.—(1) Where a reception order is made in the case of a lunatic the value of whose real and personal property is under two hundred pounds, and no relative or friend of the lunatic is willing to undertake the management of such property, any judge of county courts having jurisdiction in the place from which the lunatic is sent, may, upon the application of the clerk of the guardians, or a relieving officer of the union from which the lunatic is sent, authorize the clerk or relieving officer, or such other person as the judge by his order appoints, to take possession of and sell and realize the real and personal property of the lunatic, and to exercise all the powers which could be exercised by the legal personal representative of the lunatic if he were dead; and the receipt of the person so authorized shall be a valid discharge to any person who pays any money or delivers any property of the lunatic to such person.

(2) The judge, by whom such order is made, may by the same or any subsequent orders give such directions as he thinks fit as to the application of the property of the lunatic for his benefit or in reimbursement of such sums as may have been or may be expended by the guardians of the union for his care or relief, or of the costs or expenses incurred in relation to the lunatic by such guardians, or by the person acting under any such order as aforesaid, or the judge may, if he thinks fit, order that the whole or any part of the proceeds of the lunatic's property be paid into the county court to the credit of an account intituled in the matter of such lunatic, and any sum so paid into court may either be invested in the manner provided by the county court rules in force for the time being, or be paid out of court from time to time to such person as the judge directs, to be held and applied for the benefit of such lunatic, or in or towards such reimbursement as aforesaid, in such manner as the judge directs.

(3) The person acting under any such order shall render an

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A county court judge has no power under this section to make an order for the transfer of stock standing in the name of a lunatic. Such stock can only be dealt with under sects. 133—143, *infra* (*In re Noyce*, [1892] 1 Q. B. 642; 61 L. J. Q. B. 628; 66 L. T. 331; 40 W. R. 371; 56 J. P. 564).

The application to the county court judge must be made by petition. (See County Court Rules, Ord. XLIIB.)

As to power of county court judge to order payment of expenses incurred under this Act by guardians in relation to a lunatic, see sect. 300, *infra*.

In addition to the remedy given to guardians by this section to recoup themselves the expenses of the maintenance of pauper lunatics, administration of the estate and effects of a pauper lunatic dying intestate may be granted by the Probate Division to a

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account of his dealings with the lunatic's property to the judge by whom such order was made in such manner as the judge appoints.

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Note.

nominee of guardians as creditors of the deceased. The Queen's Proctor and the next of kin must, as a general rule, be cited (*In the goods of Reeves*, 55 J. P. 24; *In the goods of Lillicraft*, 55 J. P. 825; *Lambeth Guardians* v. *Bradshaw*, 57 L. T. 86; 50 J. P. 472).

Where a testatrix who had been in receipt of relief left a duly executed will, but appointed no executor, administration with the will annexed was granted to the clerk of the guardians (*In the goods of Baldwin*, 55 J. P. 344). Where a pauper lunatic died leaving as next of kin three brothers and one sister, all of whom renounced their right to administration, and also another brother who had gone abroad and had not been heard of for several years, the court ordered the brother abroad to be cited by advertisement and then granted administration to the clerk of the guardians (*In the goods of Byrne*, 52 J. P. 281). Where a widow died in the county asylum intestate and without issue, and her father renounced the right to a grant of administration, the grant was made to the nominee of the guardians without citing the next of kin of the intestate (*In the goods of Everley*, [1892] P. 50; 61 L. J. P. & D. 53; 65 L. T. 765).

Administration of the estate and effects of intestates, whether lunatic or sane, may also be granted to the nominee of guardians for the use and benefit of the lunatic next of kin of the deceased who is being maintained as a pauper by the guardians.

A widow died intestate, leaving a daughter, the only person entitled to the distribution of her effects. The daughter had been for some years in the county asylum, maintained at the charge of Mile End Old Town, and no committee of person or estate had been appointed. The mother left a sum of money, principally in the funds, in the name of her late husband, under whose will she was entitled to it. After the proper citations, to which there was no appearance, the court granted administration of the goods of the mother to the clerk of the guardians of Mile End Old Town, for the use and benefit of the lunatic, limited to the period of her lunacy, but required an inventory and justified security (*Mile End Old Town, Guardians*, v. *Findlay*, 3 Sw. & Tr. 265; 33 L. J. P. M. & A. 21; 9 L. T. (N. S.) 346; 9 Jur. (N. S.) 1253; S. C. *Southwell* v. *Findlay*, 27 J. P. 760).

A pauper lunatic died intestate in the county asylum, leaving a sister, his only next of kin, who was also a lunatic maintained in the workhouse. The court refused to make a grant until the next of kin of the sister had been cited, and then granted administration to the clerk of the guardians of the estate and effects of the deceased for the use and benefit of the sister during the period of her lunacy, on the usual securities being given (*Windeatt* v. *Sharland*, L. R. 2 P. & D. 217; 41 L. J. P. & M. 9; 23 L. T. (N. S.) 877; S. C. *In the goods of Sharland*, L. R. 2 P. & D. 266; 25 L. T. (N. S.) 574). The husband of a deceased intestate was a lunatic pauper in a county asylum; notice having been given to the lunatic's father, his next of kin, and no appearance being entered, a grant was made to the guardians for the use and benefit of the lunatic limited to such time as he should remain insane (*In the goods of Eccles*, 15 P. D. 1; 61 L. T. 652; 54 J. P. 55).

*Vesting Orders.*

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Power to transfer stock of lunatic.

CXXXIII. Where any stock is standing in the name of or is vested in a lunatic beneficially entitled thereto, or is standing in the name of or vested in a committee of the estate of a lunatic so found by inquisition, in trust for the lunatic, or as part of his property, and the committee dies intestate, or himself becomes lunatic, or is out of the jurisdiction of the High Court, or it is uncertain whether the committee is living or dead, or he neglects or refuses to transfer the stock, and to receive and pay over the dividends thereof as the judge in lunacy directs, then the judge may order some fit person to transfer the stock to or into the name of a new committee or into court or otherwise, and also to receive and pay over the dividends thereof in such manner as the judge directs.

Stock in name of lunatic out of the jurisdiction.

CXXXIV. Where any stock is standing in the name of or vested in a person residing out of the jurisdiction of the High Court, the judge in lunacy, upon proof to his satisfaction that the person has been declared lunatic, and that his personal estate has been vested in a person appointed for the management thereof, according to the law of the place where he is residing, may order some fit person to make such transfer of the stock or any part thereof to or into the name of the person so appointed or otherwise, and also to receive and pay over the dividends thereof, as the judge thinks fit.

Power to vest lands and release contingent right of lunatic trustee or mortgagee.

CXXXV.—(1) When a lunatic is solely or jointly seised or possessed of any land upon trust or by way of mortgage the judge in lunacy may by order vest such land in such person or persons for such estate, and in such manner, as he directs.

(2) When a lunatic is solely or jointly entitled to a contingent right in any land upon trust or by way of mortgage, the judge may by order release such hereditaments from the contingent right, and dispose of the same to such person or persons as the judge directs.

(3) An order under sub-sections (1) and (2) shall have the same effect as if the trustee or mortgagee had been sane, and had executed a deed conveying the lands for the estate named in the order, or releasing or disposing of the contingent right.

(4) In all cases where an order can be made under this section the judge may, if it is more convenient, appoint a person

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Sects. 133—143.

Note.

A vesting order under these sections may, by the operation of the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 27, be made by a master in lunacy (*In re Browne*, [1894] 3 Ch. 412; 63 L. J. Ch. 729).

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Note.

Sub-s. (1).

The words "seised" and "possessed" are defined in sect. 28 of the Lunacy Act, 1891 (54 & 55 Vict. c. 65).

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to convey the land or release the contingent right, and a conveyance or release by such person in conformity with the order shall have the same effect as an order under sub-sections (1) and (2).

(5) Where an order under this section vesting any copyhold land in any person or persons is made with the consent of the lord or lady of the manor, such land shall vest accordingly without surrender or admittance.

(6) Where an order is made appointing any person or persons to convey any copyhold land, such person or persons shall execute and do all assurances and things for completing the assurance of the lands; and the lord and lady of the manor shall, subject to the customs of the manor and the usual payments, be bound to make admittance to the land, and to do all other acts for completing the assurance thereof, as if the persons in whose place an appointment is made were free from disability and had executed and done such assurances and things.

Power to vest right to transfer stock and sue for chose in action.

CXXXVI.—(1) Where a lunatic is solely entitled to any stock or chose in action upon trust or by way of mortgage, the judge in lunacy may by order vest in any person or persons the right to transfer or call for a transfer of the stock, or to receive the dividends thereof, or to sue for the chose in action.

(2) In the case of any person or persons jointly entitled with a lunatic to any stock or chose in action upon trust or by way of mortgage, the judge may make an order vesting the right to transfer or call for a transfer of the stock, or to receive the dividends thereof, or to sue for the chose in action either in such person or persons alone or jointly with any other person or persons.

(3) When any stock is standing in the name of a deceased person, whose personal representative is a lunatic, or when a chose in action is vested in a lunatic as the personal representative of a deceased person, the judge may make an order vesting the right to transfer or call for a transfer of the stock, or to receive the dividends thereof, or to sue for the chose in action in any person or persons he may appoint.

(4) In all cases where an order can be made under this section, the judge may, if it is more convenient, appoint some proper person to make or join in making the transfer.

(5) The person or persons in whom the right to transfer or call for a transfer of any stock is vested, may execute and do all powers of attorney, assurances, and things to complete the transfer to himself or themselves or any other person or persons according to the order, and the bank and all other companies and their officers and all other persons shall be bound to obey every order under this section according to its tenor.

(6) After notice in writing of an order under this section, it shall not be lawful for the bank or any other company to transfer any stock to which the order relates or to pay any dividends thereon except in accordance with the order. Sect. 136.

CXXXVII. Where a person is appointed to make or join in making a transfer of stock, such person shall be some proper officer of the bank, or the company or society whose stock is to be transferred. Person to be appointed to transfer.

CXXXVIII. The powers conferred by this Act as to vesting orders may be exercised for vesting any land, stock, or chose in action in the trustee or trustees of any charity or society over which the High Court would have jurisdiction upon suit duly instituted, whether the appointment of such trustee or trustees was made by instrument under a power or by the High Court under its general or statutory jurisdiction. Charity trustees.

CXXXIX. The judge in lunacy may make declarations and give directions concerning the manner in which the right to any stock or chose in action vested under the provisions of this Act is to be exercised. Declarations and directions.

[Sect. 140. *Order to be conclusive evidence of allegation on which it is founded:* Repealed by the Trustee Act, 1893 (56 & 57 Vict. c. 53), s. 51, and new provision on the matter made by sect. 40 of that Act.]

CXLI. In every case in which the judge in lunacy has jurisdiction to order a conveyance or transfer of land or stock or to make a vesting order, he may also make an order appointing a new trustee or new trustees. Power to appoint new trustees.

CXLII. The judge in lunacy may order the costs of and incident to obtaining an order under the provisions of this Act as to vesting orders and carrying the same into effect to be paid out of the land or personal estate or the income thereof in respect of which the order is made, or in such manner as the judge may think fit. Costs.

CXLIII. The provisions of this Act as to vesting orders shall not affect the jurisdiction of the High Court as to any lunatic trustee or mortgagee who is an infant. Saving of power of High Court.

*Orders of Judge in Lunacy and Certificates of Masters.*

CXLIV. Every office copy of the whole of an order or report confirmed by fiat purporting to be signed by a master, and sealed or stamped with the seal of the master's office, and every office copy of a certificate in lunacy shall at all times, Office copies to be evidence.

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and on behalf of all persons, and whether for the purposes of this Act or otherwise, be admitted as evidence of the order, report, or certificate of which it purports to be a copy, without any further proof thereof.

Money orders to be acted upon.

CXLV. Where an order relates to the payment, transfer, carrying over, or depositing of any cash, stocks, funds, annuities, securities, or other effects into or in court to the credit of the matter of a lunatic, or to the payment, transfer, or carrying over, or other disposal by the Paymaster-General of any cash, stocks, funds, annuities, securities, or other effects standing in his name or deposited in his custody to the credit of the matter of a lunatic, or of any cash, stocks, funds, annuities, securities, or other effects to or in which a lunatic is entitled or beneficially interested, and which are not standing to the credit of a cause or matter depending in the High Court, the Paymaster-General and the bank, and all other persons, shall act upon an office copy of the order.

Transfers to be binding.

CXLVI. All transfers and payments made in pursuance of this Act under an order or a master's certificate shall be valid and binding on all persons.

Forgery of signature of master or seal of master's office.

CXLVII. If any person forges the signature of a master, or forges or counterfeits the seal of the masters' office, or knowingly concurs in using any such forged or counterfeited signature or seal, or tenders in evidence any document with a false or counterfeit signature of a master, or with a false or counterfeit seal, knowing the same signature or seal to be false or counterfeit, every such person shall be guilty of felony, and shall upon conviction be liable to penal servitude for a term not exceeding seven years, or to be imprisoned for a term not exceeding three years with or without hard labour.

*Percentage and Fees.*

Percentage and fees.

CXLVIII.—(1) The Lord Chancellor, with the concurrence of the Treasury, may make rules fixing the percentage and fees payable in proceedings relating to lunatics and their estates, and regulating the mode in which the same are to be ascertained and paid.

(2) Save as otherwise provided by the rules in lunacy the percentage and fees in lunacy shall be subject to the rules contained in section twenty-six of the Supreme Court of Judicature Act, 1875.

(3) The percentage, or a proper proportionate part thereof (as the case may require), shall be charged upon the estate of a lunatic, and be payable thereout, although before payment thereof he die, or the inquisition be superseded, or be vacated and discharged on a traverse; but in either of the two last-

mentioned cases the judge in lunacy may, if he thinks fit, remit or reduce the amount of the sum to be paid.

38 & 39 Vict. c. 77.

(4) Where it is made to appear to the judge in lunacy that the property of a lunatic does not exceed seven hundred pounds in value, or that the income thereof does not exceed fifty pounds per annum, he may order (if he thinks fit) that no fee shall be taken, or percentage levied, in relation to the proceedings in the matter or the property, as from the date of the order or such other time as he directs, during the continuance of the lunacy or until further order.

[Sect. 149. *Extent of power to fix percentage and fees:* Repealed by the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 29, and new provision on the matter made by sect. 27 (3) of that Act.]

## PART V.

## THE COMMISSIONERS IN LUNACY.

### *Constitution of the Commission.*

The Commissioners in Lunacy.

CL.—(1) There shall continue to be Commissioners in Lunacy, and such of them as are qualified for appointment by being medical practitioners or barristers shall be entitled to receive salaries.

(2) The salaries of the paid commissioners and the expenses of the commissioners to the amount sanctioned by the Treasury shall be paid out of monies provided by Parliament.

(3) A commissioner shall not, so long as he remains commissioner and receives any salary in respect of his office, accept, hold, or carry on any other office or situation, or any profession or employment, from which any profit is derived.

Vacancies among the commissioners may be filled.

CLI.—(1) As often as a commissioner dies, or is removed from his office, or is disqualified, or resigns, or refuses or becomes unable through illness or otherwise to act, the Lord Chancellor may appoint a person to be commissioner in his place.

(2) Every person appointed in the place of a medical practitioner shall be a medical practitioner, and every person appointed in the place of a barrister shall be a practising barrister of not less than five years standing, and every person appointed in the place of any other commissioner shall be neither a medical practitioner nor a practising barrister. Provided that a medical or legal commissioner may upon resigning his office be appointed to fill any vacancy among the unpaid commissioners, and if so appointed he may, upon the request of any four of the commissioners, perform any duty which he might have performed before his resignation. Provided also that the secretary for the time being of the

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commissioners shall be eligible to be a commissioner in the place of a barrister.

(3) In case of the temporary illness or disability of a medical or legal commissioner, the Lord Chancellor may, on the recommendation of the commissioners, appoint a person qualified to be a medical or legal commissioner to be his substitute so long as the illness or disability continues, and the substitute may exercise all the powers of the person for whom he acts.

(4) The commissioners for the time being may act notwithstanding any vacancy in their body.

(5) Every commissioner hereafter appointed shall, before he acts as commissioner, make before the Lord Chancellor, or before any three commissioners qualified to act, the declaration to be made by a commissioner set forth in the first schedule.

Licences and instruments to be sealed.

CLII.—(1) All licences, orders, and instruments granted or made, or issued, or authorized by the commissioners, in pursuance of this Act, except such orders or instruments as are to be made or signed and sealed by one commissioner or two or more commissioners, shall be sealed with the seal of the commission.

(2) All such licences, orders, and instruments, or copies thereof, purporting to be sealed with the seal of the commission, shall be received as evidence of the same respectively, and of the same respectively having been granted, made, issued, or authorized by the commissioners, without any further proof thereof.

(3) A licence, order, or instrument, or copy thereof, shall not be valid, or have any force or effect, unless it is so sealed.

Appointment of permanent chairman and mode of voting.

CLIII.—(1) There shall be a permanent chairman of the commissioners.

(2) If a permanent chairman dies, or declines, or becomes incapable to act as chairman, or ceases to be a commissioner, the commissioners, or any five of them at a meeting specially summoned for the purpose, shall select a member of their body, not being a paid commissioner, to be permanent chairman.

(3) If the chairman is absent from a meeting, a majority of the members present may elect a chairman for that meeting.

(4) Questions shall be decided by a majority of votes.

(5) The chairman of the meeting shall have a vote, and in the event of an equality of votes he shall have a casting vote.

The secretary to the commissioners.

CLIV.—(1) There shall be a secretary to the commissioners.

(2) The secretary for the time being may be removed by the Lord Chancellor on the application of the commissioners.

(3) If the office of secretary is vacant, the commissioners, with the approbation of the Lord Chancellor, may fill the vacancy.

(4) The secretary shall, in the performance of his duties, be subject to the inspection, direction, and control of the commissioners. His salary shall be of such amount as the Treasury, with the concurrence of the Lord Chancellor, determines.

(5) Every person appointed secretary shall be a barrister of at least seven years' standing, and shall for all purposes be deemed to be a permanent civil servant of the state.

Clerks to commissioners.

CLV.—(1) The commissioners may appoint such number of clerks as the Treasury sanctions.

(2) The clerks to the commissioners shall be paid such salaries as the Treasury assigns. The salaries of the commissioners, secretary, and clerks, and their expenses, to the amount sanctioned by the Treasury, shall be paid out of monies provided by Parliament.

Superannuation allowances.

22 Vict. c. 26.

50 & 51 Vict. c. 67.

CLVI. As respects superannuation allowances, the paid commissioners and the secretary and clerks shall be subject to the provisions of the Superannuation Act, 1859, and the Superannuation Act, 1887.

Secretary and clerks to make a declaration.

CLVII. Every secretary or clerk shall, before he acts, make before any one of the commissioners the declaration to be made by the secretary and clerks of the commissioners set forth in the first schedule.

Disqualification of commissioners and their secretary and clerks.

CLVIII.—(1) A person shall not be qualified to be a commissioner or secretary or clerk of the commissioners if he is, or within one year prior to his appointment has been, interested in a licensed house.

(2) If any commissioner or the secretary or any clerk of the commissioners becomes interested in a licensed house, he shall be disqualified to hold his office.

(3) Any disqualified person continuing to act shall be guilty of a misdemeanour.

*Meetings and Procedure.*

Commissioners to hold meetings for granting licences.

CLIX.—(1) The commissioners, or some five of them, shall hold quarterly meetings at their office, or at such other place as the Lord Chancellor shall direct, on the first Wednesday in the months of February, May, July, and November in every year, to receive applications for licences for houses for the reception of lunatics within the immediate jurisdiction of the commissioners.

(2) In case on any such occasion five commissioners are not

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present, the meeting shall take place on the following Wednesday, and so on weekly until five commissioners assemble.

(3) The commissioners assembled at every such meeting shall have power to adjourn the meeting from time to time and to such place as they think fit.

(4) Any five of the commissioners may, at any other time, at a meeting duly summoned, receive applications for licences.

Provision for calling meetings.

CLX.—(1) If a commissioner by writing under his hand requires the secretary to call a meeting of the commissioners for a purpose specified in the writing, or for general business, the secretary shall call a meeting.

(2) The secretary shall give to the commissioners, or such of them as are in England and have an address known to the secretary, twenty-four hours' notice of the place, day, and hour of the meeting, and of the purpose for which it is to be held.

(3) Any three commissioners assembled at a meeting shall be a quorum, and shall constitute a board, except where by this Act five commissioners are required to be present at any meeting.

(4) Every meeting shall, as far as circumstances admit, be held at the office of the commission.

Power to make orders and rules to regulate procedure.

CLXI.—(1) The commissioners, or any five of them present at any quarterly or other meeting, may, by resolution sealed with their seal or entered in a book kept for the purpose and signed by five at least of the commissioners present at the meeting, make orders and rules for regulating the duties of the commissioners and of their secretary, clerks, and servants, and for the transaction of the business of the commission.

(2) The secretary shall give to each commissioner, so far as circumstances admit, not less than seven days' notice of a meeting for the purpose of making orders or rules, and shall state in the notice the purpose of the meeting.

*Reports and Records.*

Reports to be made to the Lord Chancellor.

CLXII.—(1) The commissioners shall, at the expiration of every six months, report to the Lord Chancellor the number of visits they have made and the number of patients they have seen.

(2) They shall also in or before the month of June in every year, make to the Lord Chancellor a report made up to the end of the preceding year of the condition of the institutions for lunatics, and other places visited by them, and of the care of the patients therein, with such other particulars as they think deserving notice.

(3) They shall lay copies of the reports to be made under

this section before Parliament within one month after the same have been made if Parliament is then sitting, and, if not, within twenty-one days after the commencement of the next session.

## PART VI.

## VISITORS OF LUNATICS.

### *The Chancery Visitors.*

Appointment and qualification of Chancery visitors.

CLXIII.—(1) There shall continue to be medical and legal visitors of lunatics so found by inquisition, and they are in this Act referred to as the Chancery visitors.

(2) The Lord Chancellor may, when a vacancy occurs in the office of medical visitor or legal visitor, appoint, by writing under his hand, a fit person, being a medical practitioner in actual practice, to succeed a medical visitor, and a fit person, being a barrister of not less than five years' standing, to succeed a legal visitor.

(3) The visitors shall have such clerks and officers as the Lord Chancellor may, with the concurrence of the Treasury as to the number and salaries, determine.

(4) The salaries of the Chancery visitors, their clerks and officers, and their expenses to the amount sanctioned by the Treasury, shall be paid out of monies provided by Parliament.

Tenure of office by Chancery visitors.

CLXIV. The Chancery visitors may be removed by the Lord Chancellor in case of misconduct or neglect in the discharge of their duties, or of their being disabled from performing the same, and they shall not be engaged in the practice of their respective professions.

Visitors not to be interested in licensed houses.

CLXV. A person shall not be appointed a Chancery visitor if he is or has been within the two years preceding his appointment directly or indirectly interested in any licensed house; and if any person after his appointment becomes so interested, his appointment shall become void, and thereupon his salary shall cease.

Masters to be *ex-officio* visitors.

CLXVI. The masters for the time being shall by virtue of their office be visitors of lunatics so found by inquisition, jointly with the Chancery visitors.

The visitors and masters to form a board.

CLXVII.—(1) The Chancery visitors and the masters, or so many of them, not being less than three in number, as may from time to time be able, consistently with the discharge of their other duties, to attend, shall from time to time form themselves into a board for their mutual guidance and direction on matters connected with the visiting of lunatics.

(2) The board may report to the Lord Chancellor upon any

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matter connected with the duties of the Chancery visitors or of the board, as they think proper.

Medical or legal visitor may appoint a substitute.

CLXVIII.—(1) Where a medical or a legal Chancery visitor is temporarily prevented from discharging his duty by illness or unavoidable absence, but not otherwise, he may, with the approbation of the Lord Chancellor, appoint a medical practitioner in actual practice, or a barrister of not less than five years' standing (as the case may require), to act in his stead during his illness or unavoidable absence.

2) The medical practitioner or the barrister so appointed shall, while his appointment remains in force, have, perform, and execute all the powers, duties, and authorities belonging to the office of medical or legal visitor (as the case may be) with full validity and effect to all intents and purposes.

*Visiting Committees of Asylums.*

Constitution of visiting committee.

CLXIX.— 1) For every asylum there shall be a visiting committee appointed annually by the local authority, consisting of not less than seven members.

(2) The visiting committee of a district asylum shall be constituted of the number of members fixed by the agreement under which the asylum is provided.

(3) Where there is more than one asylum, the local authority may appoint one committee for the management and control of all the asylums, and such committee shall appoint a sub-committee for each separate asylum, and may delegate to that sub-committee such powers and duties as the committee from time to time think fit.

(4) Where a county borough has contributed towards the cost of any county asylum, the council of the borough may, if they so desire, appoint to be members of the visiting committee of the asylum such number of members of the council as may be agreed upon, or in default of agreement be determined by the commissioners under the Local Government Act, 1888, or after they have ceased to hold office, by arbitration under that Act. Such appointment shall be in substitution for any appointment previously made on the part of the borough.

51 & 52 Vict. c. 41.

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(5) Where a borough, not being a county borough, has contributed towards the cost of any county asylum, and the

Note.

Sub-s. (1). "Local authority is defined in sect. 240, *infra*.

Sub-s. (2). For agreement to provide a district asylum, see sect. 242, *infra*.

Sub-s. (4). The powers of the commissioners ceased in 1892. Arbitrations are provided for by sect. 62 of the Local Government Act, 1888.

Sub-s. (5). The prohibition against representatives of a borough on a county council voting in respect of matters in which the borough is financially interested is contained in sect. 68 (3) of the Local Government Act, 1888.

representatives of the borough on the county council are not entitled to vote for the appointment by the council of visitors of the asylum, the council of the borough may appoint two persons to be members of the committee. Sect. 169.

(6) During the continuance of a contract for the reception of the pauper lunatics of a county borough or borough specified in the fourth schedule into a county asylum, the council of the borough shall appoint a visiting committee to visit the lunatics sent from such county borough or borough in the asylum.

Mode of election of visiting committee.

CLXX. Unless some other day is appointed by the standing orders of the local authority, the visiting committee shall be appointed at the quarterly meeting of the local authority in November.

Vacancies to be filled up.

CLXXI.—(1) If a visitor dies or resigns, or becomes incapable or disqualified to act, the authority by whom he was appointed shall, as soon as possible, appoint in his place some qualified person, and the new appointment shall be made in the same manner as the annual election of visitors.

(2) The continuing members of a visiting committee may act notwithstanding any vacancy in the body.

Duration of office.

CLXXII.—(1) A visiting committee shall hold office until the first meeting of their successors.

(2) If default is made in electing a visiting committee, the visiting committee last elected shall continue in office as if they had been duly re-elected.

Examination of accounts.

CLXXIII. The visiting committee of every asylum shall, previously to the month of June in every year, examine the accounts of the treasurer and clerk of the asylum, and shall report the same to the next meeting of the local authority, or of each local authority to whom the asylum wholly or in part belongs.

Members of visiting committee not to be interested.

CLXXIV.—(1) A member of a visiting committee shall not be interested either in his own name or in the name of any other person in any contract entered into or work done for the committee, and shall not derive any profit or emolument whatsoever from the funds of the asylum.

(2) This provision shall not extend to any interest which a member of a visiting committee may have by reason of his being a shareholder of a company which has entered into any contract with or done any work for the visiting committee, but he shall not be entitled to vote in respect of such contract or work.

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Note.

Sub-s. (6).

For reception contracts, see sects. 243, 269, *infra*.

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Meetings of visiting committee.

CLXXV.—(1) The provisions of section eighty-two of the Local Government Act, 1888, with respect to the proceedings of committees of county councils shall apply to the proceedings of every visiting committee appointed wholly or partly by a county council, and the chairman of such committee may be elected accordingly.

(2) To other visiting committees the following provisions shall apply:—

(*a.*) The members of the committee shall within one month after their election meet at some convenient place, to be named in a notice in writing given by two or more of such members, or by the clerk of the outgoing committee by the direction of two or more of such members;

(*b.*) Notices of meetings shall be given to each member personally or left at his place of abode, or sent by post seven days at least before the time appointed for the meeting;

(*c.*) The members shall at the first meeting elect one of their number to be chairman of the committee;

(*d.*) The chairman shall preside at all meetings at which he is present. In case of his absence from any meeting the members present shall elect one of their number to be chairman of the meeting;

(*e.*) Any meeting may be adjourned from time to time and from place to place;

(*f.*) The committee shall meet as often as they may think fit;

(*g.*) A meeting may be adjourned by two members; for all other purposes three members shall be a quorum;

(*h.*) Every question shall be decided by a majority of the votes of the members present, and in the event of an equality of votes the chairman shall have a second or casting vote;

(*i.*) The clerk of the committee shall, whenever required in writing by the chairman or any two members of the committee, or by the manager of the asylum, and the chairman may, whenever he thinks fit, summon a meeting of the committee.

Clerk to visiting committee.

CLXXVI.—(1) Every visiting committee shall appoint a clerk (who may also be the clerk to the asylum) at such salary as the committee think fit, and a clerk so appointed

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Note

An action may be maintained against the visiting committee in the name of their clerk upon a contract entered into by them although there are no funds raised out of which to satisfy the plaintiff's claim, and if a judgment be obtained it may be enforced by *mandamus* (*Kendall* v. *King*, 17 C. B. 483; 25 L. J. C. P. 132).

may be discharged, and in the event of a vacancy in the office a new clerk may be appointed. The clerk to the visiting committee shall, unless he be sooner discharged, continue in office so long as the committee continue in office.

(2) A visiting committee may sue and be sued in the name of their clerk, and an action by or against a visiting committee shall not abate by the death or removal of the clerk, but the clerk for the time being shall always be deemed the plaintiff or defendant in the action.

*Visitors of Licensed Houses.*

Justices to appoint visitors.

CLXXVII.—(1) The justices of every county and quarter sessions borough not within the immediate jurisdiction of the commissioners shall, whether there is a licensed house within the county or borough or not, annually appoint three or more justices, and also one medical practitioner, or more, to act as visitors of licensed houses within the county or borough and otherwise for the purposes of this Act.

(2) The visitors shall at their first meeting make before a justice the declaration required by this Act to be made by a commissioner, with the necessary modification.

(3) A person shall not be qualified to be a visitor or clerk, or assistant clerk to any visitor, who is or within one year prior to his appointment has been interested in a licensed house.

(4) If a visitor or a clerk or assistant clerk to any visitors becomes interested in a licensed house he shall be disqualified to hold his office.

(5) Any disqualified person continuing to act shall be guilty of a misdemeanour.

(6) In case of the death, inability, disqualification, resignation, or refusal to act of any visitor, the justices of the county or borough may appoint a visitor in his place.

(7) The annual appointment of visitors shall be made by justices of a county at their Michaelmas quarter sessions, and by justices of a borough at special sessions, to be held in the month of October; other appointments may be made by justices of a county at any quarter sessions and by justices of a borough at special sessions to be held at the same time as any quarter sessions.

(8) In any county or borough at which no appointment of visitors has been made before the commencement of this Act the first appointment shall be made, in the case of a county, at the quarter sessions next after the commencement of this Act, and in the case of a borough, at special sessions to be held at the same time as the next quarter sessions.

(9) The clerk to the justices of a quarter sessions borough shall forthwith notify to the clerk of the peace of the borough

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the names, places of abode, and occupations or professions of all visitors appointed by the justices.

(10) A list of the names, places of abode, and occupations or professions of all visitors of licensed houses shall, within fourteen days from the date of their appointment, be published by the clerk of the peace of the county or borough for which they are appointed in a local newspaper, and shall, within three days from the date of their appointment, be sent by the clerk of the peace to the commissioners.

(11) Every clerk of the peace making default in publishing and sending to the commissioners the list of visitors within the time hereby limited, shall for every default be liable to a penalty not exceeding two pounds.

(12) Every visitor being a medical practitioner, shall be entitled to such remuneration for services rendered under this Act as the justices of the county or borough may approve.

Clerk to visitors; his duties and remuneration.

CLXXVIII.—(1) The clerk of the peace or some other person to be appointed by the justices for the county or borough shall act as clerk to the visitors.

(2) The clerk to the visitors shall, at the first meeting of the visitors, make the declaration required by this Act to be made by the secretary of the commissioners with the necessary modification, such declaration to be made before one of the visitors, being a justice.

(3) The name, place of abode, occupation, and profession of the clerk to the visitors (whether he is the clerk of the peace or any other person), shall, within fourteen days after the appointment, be published by the clerk of the peace for the county or borough in some local newspaper, and shall within three days from the date of the appointment be communicated by the said clerk of the peace to the commissioners.

(4) Every clerk of the peace making default in either of the respects aforesaid shall for every such default be liable to a penalty not exceeding two pounds.

(5) Every clerk to the visitors shall be allowed such salary or remuneration for his services as the justices for the county or borough direct.

Provision for assistants to the clerk of the visitors.

CLXXIX.—(1) If the clerk to any visitors at any time desires to employ an assistant in the execution of the duties of his office, he shall certify his desire and the name of the assistant to one of the visitors, being a justice.

(2) If the visitor approves of the assistant, the assistant shall make before the visitor the declaration to be made by assistants to the clerk to the visitors in the first schedule.

(3) Thereafter the clerk may, at his own cost, employ the assistant.

CLXXX. A visitor or clerk shall not be appointed by the justices of a borough without the consent in writing of the recorder of the borough. Consent of recorder.

CLXXXI.—(1) The visitors shall meet at such times and places as they may think proper. Meetings of visitors.

(2) The clerk to the visitors shall, upon the direction of any two visitors, call a meeting of the visitors at such time and place as the two visitors may appoint.

(3) The times and places of meetings shall be kept secret, and each meeting shall be held privately and so that no manager or person interested in or employed about or connected with any house to be visited shall have notice of any intended visit.

CLXXXII. The expenses incurred by or under the order of any visitors of licensed houses in proceedings under this Act shall be paid out of the county or borough fund. Payment of expenses of visitors of licensed houses.

## PART VII.

## VISITATION.

### *Duties of Chancery Visitors.*

CLXXXIII.—(1) The Chancery visitors shall visit lunatics so found by inquisition at such times, and in such rotation and manner, and make such inquiries and investigations as to their care and treatment and mental and bodily health, and the arrangements for their maintenance and comfort, and otherwise respecting them, as the rules in lunacy, or as any special order of the judge in lunacy in any particular case, shall from time to time direct. Duties of Chancery visitors.

(2) Provided that every lunatic shall be personally visited and seen by one of the Chancery visitors twice at least in every year, and such visits shall be so regulated as that the interval between successive visits to any such lunatic shall in no case exceed eight months.

(3) Provided also, that every lunatic resident in a private house shall, during the two years next following inquisition, be visited at least four times in every year.

CLXXXIV.—(1) The Chancery visitors shall also visit such persons alleged to be lunatics, and shall make such inquiries and reports in reference to them as the judge in lunacy directs, and at the expiration of every six months they shall report to the Lord Chancellor the number of visits made, the number of patients seen, and the number of miles travelled during such months, and shall on the first of January in each year make a Chancery visitors to visit alleged lunatics.

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return to the Lord Chancellor of all sums received by them for travelling expenses, or upon any other account.

(2) A copy of every report and return under this section shall be laid before Parliament on or before the first of February in each year, if Parliament be then sitting, and if not, within twenty-one days next after the commencement of the next session.

Chancery visitors to report to Lord Chancellor.

CLXXXV.—(1) The Chancery visitors shall respectively, within a convenient time after each visit, make a report in writing of the state of mind and bodily health and of the general condition and also of the care and treatment of each person visited, which reports shall, annually or oftener, as the Lord Chancellor directs or the board of visitors think expedient, be submitted to the Lord Chancellor.

(2) The Chancery visitors respectively shall make separate or special reports on any case to the Lord Chancellor as and when they or the board of visitors think expedient, and in particular shall report to him, without delay, any instance in which, on proceeding to visit, they have been unable to discover the residence of or have been by any other circumstance prevented from actually seeing on that occasion the lunatic whom they intended to visit.

Reports to be kept secr

CLXXXVI.—(1) The reports of the Chancery visitors shall be filed and kept secret in their office, and shall not be open to the inspection of any person save the members of the board of visitors, and the judge in lunacy and such persons as he specially appoints.

(2) All the reports relating to any particular patient shall be destroyed on his death, and shall also be destroyed on the inquisition in his case being superseded, or being vacated and discharged on a traverse, unless the judge in lunacy, within fourteen days after the *supersedeas*, or the vacating and discharge on a traverse, specially orders that the same be not destroyed until the lunatic's death.

*Lunatics in Asylums.*

Visits by commissioners.

CLXXXVII.—(1) Two or more commissioners, of whom one shall be a medical practitioner and one a barrister, shall once at least in each year visit every asylum and shall inquire—

(*a.*) Whether the provisions of the law have been carried out;

(i.) As to the construction of the building;

(ii.) As to visitation;

(iii.) As to management;

(iv.) As to the regularity of the admission and discharge of patients;

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(*b.*) Whether divine service is performed;

(*c.*) Whether any system of coercion is practised, and its result;

(*d.*) As to the classification of patients and the number of attendants on each class;

(*e.*) As to the occupations and amusements of the patients, and their effects;

(*f.*) As to the bodily and mental condition of the pauper patients when first admitted;

(*g.*) As to the dietary of pauper patients;

(*h.*) As to such other matters as to the visiting commissioners seem fit.

(2) Any one or more of the commissioners may at any time visit any asylum with the like powers as are by this section given to two or more commissioners.

Visits by visiting committee.

CLXXXVIII. At least two members of the visiting committee shall together, once at least in every two months, inspect every part of the asylum, and see every patient therein, so as to give everyone, as far as possible, full opportunity of complaint, and examine the order and certificate or certificates for the admission of every lunatic admitted since the last visitation and the general books kept in the asylum; and shall enter in the visitors' book any remarks they think proper in regard to the condition and management of the asylum and the lunatics therein, and shall sign the book upon every visit.

Visits to lunatics received under a contract.

CLXXXIX.—(1) During the continuance of a contract for the reception of the pauper lunatics of a county borough or other borough in a county asylum not less than two members of the visiting committee of the borough appointed for the purpose shall together, at least once in every six months, visit the asylum and see and examine the lunatics received under the contract, and shall report the result of their visit to the council of the borough.

(2) The visitors may, if they think fit, be accompanied by a medical practitioner who is not an officer of the asylum, and they may by order direct payment to such medical practitioner of such a sum as they think fit for his services, and such sum shall upon the production of the order be paid to the medical practitioner by the treasurer of the borough.

(3) Every report under this section shall be entered among the records of the council of the borough, and may be inspected

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Note.

Sub-s. (1).

As to reception contracts, see sects. 243, 269, *infra*.

Sub-s. (3).

For penalty for default in transmitting a copy of report, see sect. 320, *infra*.

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by the commissioners, and the commissioners may, if they think fit, require the town clerk of the borough to transmit to them a copy of any such report.

Reports by visiting committee.

CXC.—(1) The visiting committee of every asylum shall in every year lay before each local authority to which the asylum belongs, at their quarterly meeting in November, or at such other time as the local authority appoints, a report in writing of the state and condition of the asylum, and as to its sufficiency to provide the necessary accommodation, and as to its management and the conduct of the officers and servants and the care of the patients therein.

(2) The committee may in the report make such remarks in relation to any matters connected with the asylum as they think fit.

*Lunatics in Hospitals and Licensed Houses.*

Visits of the commissioners to licensed houses and hospitals.

CXCI.—(1) Every hospital and licensed house may at any time, by day or night, be visited by any one or more of the commissioners.

(2) Every licensed house within the immediate jurisdiction of the commissioners shall be visited six times a year (namely)—

(*a.*) Four times by not less that two commissioners, of whom one shall be a medical practitioner and one a barrister; and

(*b.*) Twice by one or more of the commissioners.

(3) Every licensed house not within the immediate jurisdiction of the commissioners shall be visited twice a year by not less than two commissioners, of whom one shall be a medical practitioner and one a barrister.

(4) Every hospital shall be visited once a year by not less than two commissioners, of whom one shall be a medical practitioner and one a barrister.

(5) The visits of the commissioners shall be made without previous notice.

(6) Every visit shall be made on such day or days, and at such hours, and for such length of time, as the visiting commissioners or commissioner may, subject to any direction of the commissioners, think fit.

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Note. Sub-s. (1).

As to the holding of a November quarterly meeting by a local authority, see sect. 75 of the Local Government Act, 1888 (51 & 52 Vict. c. 41), and sect. 22 and schedule 2 of the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50).

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Note. Sub-s. (2).

The places within the immediate jurisdiction of the commissioners are set out in the 3rd schedule to this Act, *infra*.

(7) The Lord Chancellor, on a representation by the commissioners setting forth the expediency of the alteration, may by writing under his hand direct that during a specified period, or until the direction is revoked, the commissioners shall not be required—

(*a.*) To visit a house licensed by justices more than once a year;

(*b.*) To visit a house licensed by the commissioners and not receiving pauper patients more than twice a year.

Inspection of licence.

CXCII. The visiting commissioners at their first visit to a house licensed by justices after the grant or renewal of the licence shall examine the licence, and if the same is in conformity with this Act shall sign the same, or if it is informal shall enter in the visitors' book in what respect it is informal.

Visits of visitors to licensed houses.

CXCIII.—(1) Every licensed house within the jurisdiction of visitors appointed by justices may at any time, by day or night, be visited by one or more of the visitors.

(2) Every such house shall be visited—

(*a.*) Four times a year by not less than two of the visitors, of whom one shall be a medical practitioner; and

(*b.*) Twice a year by one or more of the visitors.

Inspection and inquiries.

CXCIV.—(1) The visiting commissioners and visitors shall, at every visit to a hospital and licensed house which they are by this Act required to make, and any one or more of the commissioners or visitors may at any other visit do all or any of the following things:

(*a.*) Inspect any or every part of the building where lunatics are received, and every building communicating therewith or detached therefrom, but not separated by ground belonging to any other person, and every part of the ground and appurtenances held, used, or occupied therewith:

(*b.*) See every patient and inquire whether any patient is under restraint, and why:

(*c.*) Inspect the order and certificates or certificate for every patient received since the last visit:

(*d.*) Consider the observations made in the visitors' book:

(*e.*) Enter in the visitors' book a minute of the condition of the house, of the patients therein, and the number of patients under restraint, with the reasons thereof:

(*f.*) Inquire—

When divine service is performed, and to what number of patients, and its effect;

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What occupations and amusements are provided for the patients, and the results thereof;

How the patients are classified;

As to the condition of the pauper patients when first admitted;

As to the diet of the pauper patients;

As to the monies paid to the manager on account of any lunatic under his care;

As to such other matters as may in their opinion require investigation.

(2) The result of the foregoing inspections and inquiries, with such observations as may be thought proper, shall be entered in the visitors' book.

(3) Each visiting commissioner or visitor may at any visit enter in the patients' book such observations as he thinks fit as to the state of mind or body of any patient, and any irregularity which exists in any order or certificates, and also whether the suggestions (if any) made at any previous visit have been attended to, and any observations which may be thought proper.

Managers of hospitals and licensed houses to show every part and every patient to the visiting commissioners and visitors.

CXCV.—(1) The manager of every hospital or licensed house shall show to each commissioner and visitor visiting the same every part thereof, and every person therein detained as a lunatic.

(2) Every manager of a hospital or licensed house who conceals or attempts to conceal, or refuses or wilfully neglects to show, any part of the building, or any building communicating therewith or detached therefrom, but not separated as aforesaid, or any part of the ground or appurtenances held, used, or occupied therewith, or any person detained, or being therein, from any one or more of the visiting commissioners or visitors, or from any person authorized under this Act to visit and inspect the hospital or house, or the patients therein or any of them, or who does not give full and true answers to the best of his knowledge to all questions which any visiting commissioner or visitor asks in the execution of his office, shall be guilty of a misdemeanour.

Books and documents to be produced to visiting commissioners and visitors.

CXCVI.—(1) The manager of every hospital or licensed house shall lay before the visiting commissioners or commissioner, or the visitors or visitor, at each visit—

(*a.*) A list of all the patients then in the hospital or house (distinguishing pauper patients from other patients, and males from females, and specifying such as are deemed curable):

(*b.*) The several books by this Act or any rules under this

Act required to be kept by the manager and by the medical officer of a hospital or licensed house:

(*c.*) All orders and certificates relating to patients admitted since the last visit:

(*d.*) In the case of a licensed house the licence then in force:

(*e.*) All other orders, certificates, documents, and papers relating to any of the patients at any time received into the hospital or licensed house which may be required to be produced.

(2) Each visiting commissioner or visitor shall sign the said books as having been produced.

Entries in the patients' book as to doubtful patients.

CXCVII.—(1) Every commissioner visiting a house licensed by justices shall carefully consider and give special attention to the state of mind of any patient, as to the propriety of whose detention there is a doubt or as to whose sanity their attention is specially called, and shall, if the state of mind of such patient is considered doubtful, and the propriety of his detention requires further consideration, make and sign a minute thereof in the patients' book.

(2) A copy of every such minute shall, within two clear days after the same has been made, be sent by the manager of the house to the clerk of the visitors of the house, and the clerk shall forthwith communicate the same to the visitors, or some two of them (of whom one shall be a medical practitioner), and the visitors shall thereupon immediately visit the patient and act as they think fit.

(3) Every manager who omits to send a copy, as hereinbefore directed, of every such last-mentioned minute, and every clerk who neglects to communicate the same to two of the visitors as aforesaid, shall be guilty of a misdemeanour.

*Visits to Single Patients.*

Annual visit to single patient.

CXCVIII. One or more of the commissioners shall once at least in every year visit every unlicensed house in which a single patient is detained as a lunatic and inquire into and report to the commissioners on the treatment and state of bodily and mental health of the patient.

Power to visit single patients, and report.

CXCIX.—(1) Any one commissioner, on the direction of the commissioners, or of any two of them (of whom the one commissioner may be one), may at all reasonable times visit a single patient, and inquire into and report to the commissioners or the Lord Chancellor on the treatment and state of health, both bodily and mental, of the patient, and as to the monies paid on his account.

(2) Any one or more of the visitors appointed for any county

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or borough shall, upon the request in writing of the commissioners, or any two of them, have the like power as regards any single patient detained in an unlicensed house in such county or borough.

(3) Upon every visit under this section the medical journal shall be produced to the person making the visit, and he shall sign the same.

(4) Every report under this section shall be kept by the secretary of the commissioners, and a copy thereof shall, if the commissioners think it expedient, be laid before the Lord Chancellor.

Power to inspect.

CC.—(1) Any commissioner visiting an unlicensed house may inspect any part of the house and the grounds belonging thereto.

(2) If the person having charge of a single patient refuses to show to any commissioner, at his request, any part of the house wherein the single patient resides, or any part of the grounds belonging thereto, he shall be guilty of a misdemeanour.

*Visits to Paupers in certain Cases.*

Visits to paupers in institutions for lunatics.

CCI.—(1) A medical practitioner appointed by the guardians of a union, and also the guardians of any union shall be permitted, whenever they see fit, between eight in the morning and six in the evening, to visit and examine any pauper lunatic chargeable to the union confined in any institution for lunatics, unless the medical officer of the institution delivers to the person or persons intending to make the visit a statement signed by him certifying that for the reasons set forth in the statement the visit would be injurious to the lunatic.

(2) The medical officer shall forthwith enter in the medical journal the reasons set forth in the statement, and shall sign the entry.

Visits to pauper lunatics not in an institution for lunatics.

CCII.—(1) Every pauper lunatic not in an institution for lunatics shall once in every quarter of a year (reckoning the several quarters as ending on the thirty-first of March, the thirtieth of June, the thirtieth of September, and the thirty-first of December) be visited, if not resident in a workhouse, by the medical officer of the union, or district in which the lunatic is resident, and, if resident in a workhouse, by the medical officer of the workhouse.

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Note. Sub-s. (1).

By General Orders the Local Government Board direct the district auditor to allow the expenses of a deputation of three guardians and a clerk for making such visit as is permitted by this sub-section. (See Gen. Ord., June 27th, 1870; Macmorran & Lushington's Poor Law Orders, p. 502.)

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(2) The guardians of every union shall from time to time furnish to every medical officer of the union forms for the prescribed returns relating to pauper lunatics not in an institution for lunatics.

(3) Where a pauper lunatic has, by order of the visiting committee, been delivered over to the custody of a relative or friend to whom an allowance is made for the maintenance of the lunatic, the medical officer of the union or district in which the lunatic resides shall, within three days after each quarterly visit, send to the visiting committee a report stating whether in his opinion the lunatic is properly taken care of, and may properly remain out of an asylum.

(4) Each medical officer shall be paid two shillings and sixpence for each quarterly visit to a pauper not in a workhouse, and in addition two shillings and sixpence for every report sent to a visiting committee under this section, and those sums shall be paid by the same persons and be charged to the same account as the relief of the pauper.

(5) Nothing in this section shall relieve any medical officer from any obligation under this Act to give notice to a relieving officer or overseer when it appears to such medical officer that a pauper lunatic ought to be sent to an asylum.

Visitation of workhouses.

CCIII. Any one or more of the commissioners shall, on such day or days, and at such hours in the day, and for such length of time as he or they may think fit, visit all such workhouses in which there is or is alleged to be any lunatic, as the commissioners by any resolution direct, and shall inquire whether the provisions of the law have been carried out, and also as to the dietary, accommodation, and treatment of the lunatics, and shall report in writing thereon to the commissioners, and the commissioners shall forward a copy of every such report to the Local Government Board.

*Special Visits.*

Power to appoint a person to inquire into cases requiring immediate investigation.

CCIV.—(1) If, for reasons to be entered on the minutes of the board, any case appears to the commissioners to call for immediate investigation, they may by order direct any competent person or persons to visit and report upon the mental and bodily condition of any lunatic or alleged lunatic in any institution for lunatics or workhouse, or under the charge of any person as a single patient, and to inquire into and report upon any matters into which the commissioners are authorized to inquire.

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Note.

For the boarding out of pauper lunatics with relatives or friends, see sect. 57, *supra*.

Sub-s. (3).

Sub-s. (5).

The obligation to give such notice is imposed by sects. 14 (1) and 24 (6), *supra*.

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(2) Every such person shall, for the special purposes mentioned in the order, have all the powers of a commissioner.

(3) The commissioners may allow to any such person a reasonable sum for his services and expenses.

Visits to lunatics so found, and other lunatics.

CCV.—(1) The Lord Chancellor in the case of a lunatic so found by inquisition, and the Lord Chancellor or a Secretary of State in any other case, may at any time, by an order in writing under the hand of the Lord Chancellor or the Secretary of State, as the case may be, directed to the commissioners or any of them, or to any other person, require the persons or person to whom the order is directed to visit and examine a lunatic or alleged lunatic and to inspect any place in which a lunatic or alleged lunatic is detained, and to report to the Lord Chancellor or to a Secretary of State upon such matters as in the order are directed to be inquired into.

(2) Every person (not being a commissioner) employed under this section may be paid such sum of money for his services as the Lord Chancellor or a Secretary of State thinks reasonable.

(3) Every person so employed, whether a commissioner or not, shall be allowed his reasonable travelling or other expenses while so employed.

(4) Sums payable under this section shall be paid out of monies provided by Parliament.

*Lunatics in Private Families and Charitable Establishments.*

Lunatics in private families and charitable establishments.

CCVI.—(1) If it comes to the knowledge of the commissioners that any person appears to be without an order and certificates detained or treated as a lunatic or alleged lunatic by any person receiving no payment for the charge, or in any charitable, religious, or other establishment (not being an institution for lunatics), they may require the person by whom the patient is detained, or the superintendent or principal officer of the establishment, to send to them, within or at such time or times as the commissioners may appoint, a report or periodical reports by a medical practitioner of the mental and bodily condition of the patient, with all such other particulars as to him and his property as they think fit.

(2) Any one or more of the commissioners may at any time visit any such patient and report the result of the visit to the commissioners, and may exercise, with respect to such patient, all the powers (except that of discharge) given to them as to persons confined in any institution for lunatics, or as single patients.

(3) The commissioners may, if they think fit, transmit any

Sect. 206. Note. Sub-s. (3).

For the right of the guardians to recover expenses against the lunatic and his estate, see sect. 132, *supra*, and sects. 299, 300, *infra*; and against persons or authorities liable for his maintenance, sects. 286—298, *infra*.

reports received by them, or may report the results of any inquiries made by them under this section, to the Lord Chancellor, who may thereupon make an order for the discharge of the patient from the custody in which he is detained or for his removal to an institution for lunatics, or to such other custody as he may think fit, and the expenses properly incurred of carrying any such order into effect and of maintaining the patient if so removed shall, if the order so directs, be paid by the guardians of the union in which the patient was found, until the authority legally liable for his maintenance has been ascertained; and such guardians shall have the same right to recover any such expenses paid by them against the lunatic and his estate, and the person or authority legally liable for his maintenance as in the case of orders for maintenance under this Act.

(4) Where an order is made by the Lord Chancellor under this section for removal of a lunatic to an asylum, any justice of the county or borough in which the asylum is may exercise all the authorities conferred upon a justice by this Act, for the purpose of making the lunatic's property applicable to his maintenance and for maintaining him as a pauper.

(5) All reports and particulars sent to the commissioners under this section shall be kept by them, and shall be open to inspection only by the commissioners and the Lord Chancellor, and by such persons as the Lord Chancellor directs.

## PART VIII.

## LICENSED HOUSES AND HOSPITALS.

*Restrictions on New Licences.*

Restrictions on new licences.

CCVII.—(1) If the commissioners in the case of a house within their immediate jurisdiction, or in the case of a house licensed by justices the justices, are of opinion that a house licensed for the reception of lunatics has been in all respects well conducted by the licensees, the commissioners or justices may upon the expiration of the licence renew the licence for that house to the former licensees, or any one or more of them, or to their successors in business.

(2) If on the twenty-sixth of August, one thousand eight hundred and eighty-nine, the licensees of any house had made arrangements to establish a new house for the reception of lunatics in the place of an existing house, and the commissioners, or if the existing house was within the jurisdiction of justices the justices, are of opinion that such new house will be as well suited for the purpose as the existing house, and are also of opinion that the existing house has been in all respects well conducted, the commissioners or justices may grant to the licensees of the existing house, or any one or more of them, a licence for the new house, and may renew the same to the

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original licensees, or any one or more of them, or to his or their successors in business.

(3) If at any time it is shown to the satisfaction of the commissioners or the justices, as the case may be, that it would be for the comfort and advantage of the patients in any licensed house that another house should be substituted in place thereof, the commissioners or justices may grant to the licensees of such first-mentioned house a licence in respect of such other house upon and subject to the same conditions and restrictions as may have existed in respect of the first-mentioned house.

(4) In the case of joint licensees or proprietors who desire to carry on business apart from one another, if, in the opinion of the commissioners or of the justices, as the case may be, the establishment conducted by them jointly, and also any new house which any of them desires to conduct, answers the conditions herein-before required for granting renewed licences, the commissioners or justices, as the case may be, may grant to each of such licensees or proprietors renewed licences for such number of patients (not exceeding in the aggregate the number allowed by the joint licence) as such joint licensees or proprietors agree upon, or, failing their agreement, as the commissioners or justices determine.

(5) Where the licensee of a house is a medical man in the employment of the proprietor of such house as his manager, the licence shall be transferable or renewable to such licensee so long as he continues manager of the house, or to the proprietor, or to any other medical manager while employed by the proprietor in the place of the former manager.

(6) Save as in this section provided, no new licence shall be granted to any person for a house for the reception of lunatics, and no house in respect of which there is at the passing of this Act an existing licence shall be licensed for a greater number of lunatics than the number authorized by the existing licence.

*Jurisdiction of Commissioners and Justices.*

Places within immediate jurisdiction of commissioners.

CCVIII.—(1) The commissioners shall exercise the licensing jurisdiction under this Act as regards the places mentioned in the third schedule which are to be deemed within their immediate jurisdiction.

(2) In all places not within the immediate jurisdiction of the commissioners the justices for every county and quarter sessions borough shall be the licensing justices, and shall at quarter or special sessions respectively have the same authority within their counties and boroughs to license houses for the reception of lunatics as the commissioners within their immediate jurisdiction.

(3) A person shall not act in granting any licence if he is, or within one year next preceding has been, interested in a licensed house.

Borough justices to hold special sessions.

CCIX. For the purposes of this part of this Act the justices of every borough shall assemble in special sessions at such times as the quarter sessions for the borough are held.

*Conditions on which Licences granted.*

Before grant of a new licence by justices commissioners to inspect and report.

CCX. Before a licence is in any case provided for by this Act granted for a house not within the immediate jurisdiction of the commissioners and not previously licensed, one or more of the commissioners shall by inspection ascertain whether the house and its appurtenances are suitable for the reception of lunatics, and the commissioners shall report thereon to the clerk of the peace of the county or borough, and the report shall be received and considered by the justices.

Licensee to reside.

CCXI. A licence shall not be granted unless the licensee or one of the licensees undertakes to reside in the house.

Licence to joint licensees.

CCXII. In the case of a licence granted to two or more persons, if before the expiration of the licence any of such persons dies leaving the others surviving, and one of the survivors has undertaken or within ten days after the death gives to the commissioners or the justices who granted the licence a written undertaking to reside on the licensed premises, the licence shall remain in force and have the same effect as if granted to the survivors.

Notice of additions and alterations.

CCXIII. No addition or alteration shall be made to any licensed house or the appurtenances without the previous consent in writing of the commissioners, and also of two of the visitors in the case of a house within the jurisdiction of visitors.

Untrue statement a misdemeanour.

CCXIV. If any person, for the purpose of obtaining a licence or the renewal of a licence for a house for the reception of lunatics, wilfully supplies to the commissioners or justices any untrue or incorrect information, plan, description, statement, or notice, he shall be guilty of a misdemeanour.

A copy of licence granted by justices to be sent to the commissioners.

CCXV.—(1) Within seven days after the grant of a licence by the justices of a county or borough the clerk of the peace of the county or borough shall send a copy thereof to the commissioners.

(2) Any clerk of the peace omitting to send such copy within such time shall for every such omission be liable to a penalty not exceeding forty shillings.

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Stamps on licences.

CCXVI. Licences and renewed licences shall be stamped with a ten shilling stamp, and shall be under the seal of the commissioners, if granted by them, and if by any justices under the hands of three or more of them in quarter or special sessions assembled, and shall be granted for such period, not exceeding thirteen months, as the commissioners or justices, as the case may be, think fit.

Charge for licences.

CCXVII.—(1) For every licence there shall be paid to the secretary of the commissioners, or to the clerk of the peace, according as the licence is granted by the commissioners or justices (exclusive of the stamp), the sum of ten shillings for every patient not being a pauper, and the sum of two shillings and sixpence for every patient being a pauper.

(2) If the total amount of such sums of ten shillings and two shillings and sixpence does not amount to fifteen pounds, then so much more shall be paid as makes up fifteen pounds.

(3) If the period for which a licence is granted is less than thirteen months, the commissioners or the justices may reduce the payment to any sum not less than five pounds.

(4) The payment for a licence for a new house granted upon the transfer of patients from a licensed house shall be not less than one pound (exclusive of the stamp).

(5) No licence shall be delivered until the sum payable for the same has been paid.

Incapacity or death of the person licensed.

CCXVIII.—(1) If a person to whom a licence has been granted becomes by sickness or other sufficient reason incapable of keeping the licensed house, or dies before the expiration of the licence, the commissioners or any three justices for the county or borough, as the case may be, may, if they think fit, by writing indorsed on the licence under the seal of the commissioners or under the hands of such three justices, transfer the licence, with all the privileges and obligations annexed thereto, for the term then unexpired, to such person as the commissioners or justices approve.

(2) Where a licence is transferred by justices of a county or borough under this section, the clerk of the peace of the county or borough shall within three days after the date of the instrument of transfer send a copy thereof to the commissioners.

(3) A clerk of the peace who makes default in performing the duty imposed upon him by this section, shall, for each day during which the default continues, be liable to a penalty not exceeding forty shillings.

Notice on change of house.

CCXIX. In cases in which under this Act a house not previously licensed is to be substituted for a licensed house, unless the substitution is occasioned by fire or tempest, seven clear days' notice of the intended substitution shall

be sent to the person on whose petition the reception order of each private patient was made, or to the person by whom the last payment on account of the patient was made, and to the authority liable for the maintenance of each pauper patient.

Penalty for infringing licence.

CCXX. If a licensee receives into his licensed house any patients beyond the number specified in the licence, or fails to comply with the regulations of the licence as to the sex of the patients or the class of patients, he shall for each patient received contrary to his licence forfeit fifty pounds.

Power of revocation and prohibition of renewal of licences.

CCXXI.—(1) If a majority of the justices of a county or quarter sessions borough in quarter or special sessions assembled recommend to the Lord Chancellor that any licence granted by the justices for such county or borough be revoked, or if the commissioners recommend to the Lord Chancellor that any licence granted either by them or by any justices be revoked or if granted by any justices be not renewed, the Lord Chancellor may, by an instrument under his hand and seal, revoke or prohibit the renewal of the licence.

(2) A revocation of a licence shall take effect at a date to be named in the instrument of revocation, not more than two months from the time when a copy or notice thereof has been published in the London Gazette.

(3) A copy or notice of the instrument of revocation shall be published in the London Gazette, and shall, before publication, be transmitted to the manager of the licensed house, or shall be left at the licensed house.

(4) In case of any such revocation or prohibition to renew being recommended to the Lord Chancellor, notice thereof in writing shall, seven clear days previously to the transmission of such recommendation to the Lord Chancellor, be given to the manager, or left at the licensed house.

Detention of lunatics after expiration or revocation of a licence a misdemeanour.

CCXXII. If after the lapse of two months from the expiration or revocation of the licence of any house, there are in the house two or more lunatics, every person keeping the house or having the care or charge of the lunatics therein, shall be guilty of a misdemeanour.

Powers to continue so long as any lunatics detained.

CCXXIII. The powers of the commissioners and visitors with reference to any licensed house and the patients therein, and all powers and provisions of this Act having reference to the discharge, removal, and transfer of the patients, shall, after the expiration or revocation of the licence, continue in force so long as any patients are detained therein as lunatics.

*Application of Fees for Licences.*

Application of monies received for licences by clerks of the peace.

CCXXIV.—(1) All monies received for licences granted by any justices shall be paid by the clerk of the peace for the county or borough into the county or borough fund.

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(2) The clerk of the peace for every county or borough shall keep an account of all monies received and paid by him as aforesaid, and of all monies otherwise received or paid by him in the execution of this Act.

(3) Such account shall be made up to the thirty-first day of March in each year, or to such other date as the Local Government Board appoint, and shall be signed by two at least of the visitors for the county or borough; and in the case of the clerk of the peace of a county, shall be audited by the same person, in the same manner, and with the same incidents and consequences as the accounts of officers of the county council under the Local Government Act, 1888.

51 & 52 Vict. c. 41.

Balance of payments over receipts may be paid out of the funds of the county or borough.

CCXXV.—(1) The justices of every county or borough in quarter or special sessions may order such sums as may be reasonable for payment of the remuneration or salary of the visitors and their clerk, and of all other expenses incurred by or under the authority of the justices or visitors in the execution of this Act, to be paid to the clerk of the peace of the county or borough out of the county or borough fund.

(2) Every such sum shall be paid out of the county or borough fund by the treasurer thereof, and shall be allowed in his accounts, on the authority of the order by the justices for the payment thereof.

(3) Every sum ordered to be paid by justices of a county under this section shall be subject to the sanction of the standing joint committee of the county council and quarter sessions as provided by section sixty-six of the Local Government Act, 1888.

*Management of Licensed Houses.*

Commissioners may make regulations for the government of licensed houses.

CCXXVI. The commissioners, with the sanction of a Secretary of State, may make regulations for the government of any licensed house; and such regulations of the commissioners, or a copy thereof, shall be transmitted by their secretary to the manager of every licensed house to which the same relate, and shall be observed therein.

Plans to be hung up.

CCXXVII. There shall be hung up in some conspicuous part of every licensed house a copy of the plan given to the commissioners or justices on applying for the licence.

Provision for residence and visits of medical attendants.

CCXXVIII.—(1) In every house licensed for one hundred patients, or more, there shall be resident as the manager and medical officer thereof a medical practitioner.

(2) Every house licensed for less than one hundred and more than fifty patients (in case the house is not kept by or has not a resident medical practitioner) shall be visited daily by a medical practitioner.

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(3) Every house licensed for less than fifty patients (in case the house is not kept by or has not a resident medical practitioner) shall be visited twice a week by a medical practitioner.

(4) The visitors of any licensed house may direct that such house, and the commissioners may direct that any licensed house shall be visited by a medical practitioner at any other time or times, not being oftener than once a day.

(5) When a house is licensed to receive less than eleven lunatics, any two of the commissioners or any two of the visitors of such house may, if they think fit, by any writing under their hands, permit the house to be visited by a medical practitioner at such intervals more distant than twice a week as the commissioners or visitors appoint, but not at a greater interval than once in every two weeks.

Boarders in licensed houses.

CCXXIX.—(1) The manager of a licensed house may, with the previous consent in writing of two of the commissioners, or, where the house is licensed by justices, of two of the justices, receive and lodge as a boarder for the time specified in the consent any person who is desirous of voluntarily submitting to treatment; after the expiration of which time (unless any further consent is in like manner given for the extension thereof) he shall be discharged. The manager of a licensed house may also, with such previous consent as aforesaid, receive and lodge as a boarder, for the time specified in the consent, any relative or friend of a patient.

(2) The consent of the commissioners or justices, as the case may be, shall be given only upon application to them by the intending boarder.

(3) The total number of patients and boarders in a licensed house shall at no one time exceed the number of patients for which the house is licensed.

(4) Every boarder shall, if required, be produced to the commissioners and visitors respectively on their respective visits.

(5) A boarder may leave the licensed house in which he is a boarder upon giving to the manager thereof twenty-four hours' notice in writing of his intention so to do.

(6) If any person is not allowed to leave the licensed house in which he is a boarder after the expiration of twenty-four hours' notice to the manager thereof of his intention so to do, he shall be entitled to recover from the manager ten pounds as liquidated damages for each day or part of a day during which he is detained.

*Hospitals.*

Hospitals to have a resident medical attendant.

CCXXX. Every hospital for the reception of lunatics shall have a medical practitioner resident therein as the superintendent and medical officer thereof.

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Provisions for registration of hospitals in which lunatics are received.

CCXXXI.—(1) When application is made for the registration of a hospital for the reception of lunatics, the commissioners may depute any one or more members of their body, or may employ such person or persons as they think fit, to inspect the hospital and report to them thereon.

(2) If the commissioners are of opinion that the hospital ought not to be registered for the reception of lunatics, they shall make a written report to a Secretary of State, stating the reasons for such opinion, and the Secretary of State shall thereupon finally determine whether the hospital ought to be registered or not.

(3) If the commissioners are of opinion or a Secretary of State determines that the hospital ought to be registered, the commissioners shall issue a provisional certificate of registration.

(4) A provisional certificate shall be valid for six months from the date of its issue, and for such extended time as the commissioners allow, unless before its expiration it is superseded by a complete certificate of registration.

(5) Within three months from the date of the provisional certificate, the managing committee of the hospital shall frame regulations for the hospital, and shall submit the same to a Secretary of State for approval.

(6) Upon approval of the regulations by a Secretary of State, the commissioners shall issue a complete certificate of registration, and shall specify therein the total number of patients of each sex who may be received in the hospital.

(7) As from the date of a provisional certificate lunatics may be received in the hospital, but if no complete certificate of registration is granted, then no lunatic shall be received or detained in the hospital after the expiration of the provisional certificate.

(8) The total number of patients and boarders, if any, in a hospital shall at no one time exceed the number of patients for which the hospital is certified.

(9) No lunatic shall be received in any hospital unless the same has been registered before the passing of this Act, or is registered under a provisional or complete certificate by virtue of this Act.

(10) The superintendent of any hospital who receives or detains any lunatic in the hospital contrary to the provisions of this Act, or to the terms of the complete certificate of registration, shall be guilty of a misdemeanour.

Regulations.

CCXXXII.—(1) The regulations for the time being in force in a hospital shall be observed.

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Note. Sub-s. (1).

By the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 12, the managing committee may alter the regulations with the consent of the Secretary of State.

(2) Such regulations shall be printed, and a copy thereof shall be sent to the commissioners, and another copy hung up in the visitors' room in the hospital.

(3) If the regulations are not so sent and hung up, the superintendent shall be liable to a penalty not exceeding twenty pounds.

Buildings not shown on plans not to be used for accommodation of lunatics.

CCXXXIII.—(1) No building in the occupation of the managing committee of a registered hospital not shown on the plans sent to the commissioners pursuant to any rules made by them shall be deemed part of the hospital for any purpose connected with the reception or the care and treatment of lunatics.

(2) If the superintendent of a registered hospital knowingly permits any lunatic to be detained or lodged in any building not shown on the plans of the hospital sent to the commissioners, he shall be deemed guilty of a misdemeanour.

Accounts to be audited and printed.

CCXXXIV.—(1) The accounts of every registered hospital which does not submit its accounts to the Charity Commissioners shall be audited once a year by an accountant or other auditor to be approved by the Lunacy Commissioners, and shall be printed.

(2) The Lunacy Commissioners may, if they think fit, prescribe the form in which the accounts of any registered hospital are to be kept, and the day of the year to which they are to be made up.

Superannuation allowance of officer of hospital.

CCXXXV. The managing committee of any hospital may grant to any officer or servant who is incapacitated by confirmed illness, age, or infirmity, or who has been an officer or servant in the hospital for not less than fifteen years and is not less than fifty years old, such superannuation allowance, not exceeding two-thirds of the salary of the superannuated person, with the value of the lodgings, rations, or other allowances enjoyed by him, as the committee think fit.

Persons disqualified to be members of managing committee of hospital.

CCXXXVI. The following persons shall be disqualified from being members of the managing committee of a registered hospital:

(*a.*) Any medical or other officer of the hospital:

(*b.*) Any person who is interested in or participates in the profits of any contract with or work done for the managing committee of the hospital, but so that this disqualification shall not extend to a person who is a member of an incorporated company which has entered into a contract with or done any work for the managing committee.

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Powers for enforcing regulations of hospitals.

CCXXXVII.—(1) The commissioners may require the superintendent or any other officer of a registered hospital to give them such information as the commissioners think fit as to the mode in which the regulations of the hospital are carried out.

(2) If the commissioners are of opinion that the regulations are not properly carried out, they may give to the superintendent and any two members of the managing committee of the hospital notice stating the particulars in which the regulations are not properly carried out, and requiring such things to be done as the commissioners think proper for carrying out the same.

(3) If at the expiration of six months from the date of the notice the requirements of the notice have not, in the opinion of the commissioners, been complied with, the commissioners, with the consent in writing of a Secretary of State, may make an order directing the hospital to be closed as from the date named in the order, so far as the reception and detention of lunatics is concerned.

(4) If any lunatics are detained or kept in the hospital after the date appointed by the order for closing the hospital, the superintendent of the hospital shall be guilty of a misdemeanour.

(5) Before an order is made under this section, the commissioners shall send to the superintendent and any two members of the managing committee of the hospital notice in writing requiring them to state in writing within fourteen days the reasons why the requirements of the first notice have not been complied with; and such statement, if any, shall be laid before the Secretary of State.

## PART IX.

## COUNTY AND BOROUGH ASYLUMS.

### *Obligation to provide Asylums.*

Local authorities to provide asylums.

CCXXXVIII.—(1) Every local authority, as defined by this Act, shall provide and maintain an asylum or asylums for the accommodation of pauper lunatics.

(2) Where the asylum accommodation of a local authority appears to the local authority to be insufficient, the local authority may supply the deficiency by exercising the powers by this Act conferred for providing asylum accommodation, or by rebuilding or enlarging any existing asylum.

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(3) For the purpose of providing asylum accommodation, a

Note.

Sub-s. (1). For the definition of "local authority," see sect. 240, *infra*.

Sub-s. (2). For the powers conferred by this Act for providing asylum accommodation, see sects. 241—246, *infra*.

local authority may purchase any licensed or other houses and land. Sect. 238.

(4) For the purpose of providing asylum accommodation a local authority not being a county council shall have the same powers as are by section sixty-five of the Local Government Act, 1888, conferred upon a county council. 51 & 52 Vict. c. 41.

CCXXXIX. A local authority shall exercise the powers conferred by this Act for providing asylum accommodation by a visiting committee, subject, if the local authority thinks fit, to their directions as to which of the methods of providing asylum accommodation authorized by this Act shall be adopted. Powers to be exercised by a visiting committee.

*Local Authority defined.*

CCXL. The council of every administrative county and county borough respectively constituted under the Local Government Act, 1888, and the council of each of the boroughs specified in the fourth schedule, or in the case of the city of London the common council, shall be a local authority for the purposes of this Act. Local authority defined.

*Powers for providing Asylums.*

CCXLI. A local authority may provide asylum accommodation for pauper and private patients, together or in separate asylums, and may provide separate asylums for idiots or patients suffering from any particular class of mental disorder. Power to provide asylums for pauper and private patients.

CCXLII.—(1) For the purpose of providing asylum accommodation, a local authority may do all or any of the following things:— Modes in which asylum may be provided.

(*a.*) Provide and maintain an asylum alone;

(*b.*) Agree to unite in providing and maintaining a district asylum with any other local authority or local authorities;

(*c.*) Agree to unite with any other local authority or local authorities upon such terms as to payment and otherwise as may be thought proper for the joint use as a district asylum of any existing asylum, and, if they think fit, for the enlargement of the same.

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For the definition of "administrative county," see sect. 100 of the Local Government Act, 1888. Sect. 240. Note.

Special provision is made for the county of Lancashire by a local Act (54 & 55 Vict. c. xx.).

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For special provisions as to asylums for idiots, see the Idiots Act, 1886 (49 & 50 Vict. c. 25). Sect. 241. Note.

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(2) Where an agreement to unite has been entered into, an agreement for further union may been entered into between all or any of the local authorities concerned, and for all the purposes of this Act an agreement for further union shall be deemed to be an agreement to unite.

(3) An agreement to unite shall not be carried into effect without the approval of a Secretary of State.

Contract between council of county borough and visiting committee.

CCXLIII.—(1) The council of a county borough may contract with the visiting committee of an asylum for the reception of the pauper lunatics of the borough into the asylum.

(2) Any such contract may be made for such consideration and upon such terms as to duration, determination, and otherwise as may be agreed between the council of the borough and the visiting committee of the asylum.

(3) While a contract under this section is in force, making adequate provision for the pauper lunatics of the borough, the council of the borough shall not be required to provide an asylum alone or in union.

(4) A contract under this section shall not be carried into effect until approved by a Secretary of State.

Provision for case where a county borough has contributed to the cost of a county asylum.

CCXLIV.—(1) Where a county borough has contributed to the cost of building and furnishing a county asylum, the existing liability of the borough council shall continue until a new arrangement is made under this section, and the county council shall provide accommodation for and maintain pauper lunatics sent from the borough on the same terms as hitherto.

(2) Any new arrangement may be made between the county council and all the borough councils concerned, with respect to any such asylum; and if any such new arrangement is made, the borough and county councils may carry into effect any adjustment of property, debts, and liabilities which is the subject of such arrangement. If any council desires to make a new arrangement, and any or all of the other councils refuse to agree to the same, the matter shall be referred to the commissioners under the Local Government Act, 1888, or after they have ceased to hold office, to arbitration under that Act.

51 & 52 Vict. c. 41.

Borough contributing to county asylum exempt.

CCXLV.—(1) Where any borough specified in the fourth schedule contributes to a county asylum, such borough shall, so long as it continues to contribute, be deemed to satisfy the requirements of this Act with respect to asylum accommodation.

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Note.

Sub-s. (1).

The council of the Isles of Scilly may contract with the visiting committee of any asylum for the reception into such asylum of lunatics of the Scilly Isles on such terms as may be agreed or determined by a Secretary of State.

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(2) The council of the borough may resolve for the purpose of providing asylum accommodation to separate from the county to which it contributes.

(3) Notice of the resolution to separate shall be given to the clerk of the county council, and upon the expiration of six months from the date of the notice, the council of the borough shall be subject to the obligations imposed by this Act of providing asylum accommodation.

(4) Notwithstanding a notice to separate, the council of the borough shall continue liable to contribute to the county asylum, until all the pauper lunatics therein belonging to the borough have been removed.

Where borough contracts with county, powers of borough to provide an asylum to cease on determination of contract.

CCXLVI. Where any borough specified in the fourth schedule has contracted for the reception of the lunatics of the borough in the asylum of the county in which the borough is situate, the borough shall, on the determination of the contract, cease to be a local authority under this Act, and [*subject to the enactments providing for an additional charge for the maintenance of lunatics in cases where no contribution has been made towards the cost of building and furnishing an asylum,*] shall be liable to contribute to the county rate of the county in respect of such lunatic asylum in like manner as the rest of the county.

*Power of Secretary of State to enforce Act.*

Default by county or borough in providing asylum.

CCXLVII. If the commissioners report to a Secretary of State that any local authority has failed to satisfy the requirements of this Act as regards asylum accommodation, the Secretary of State may require the local authority to provide such accommodation in such manner as he may direct, and the local authority shall forthwith carry the requisition into effect.

*Agreements to Unite.*

Provisions to be contained in agreements to unite.

CCXLVIII.—(1) Agreements to unite shall state—

(*a.*) The number of visitors to be chosen by each contracting party;

(*b.*) The proportion in which the expenses of providing the asylum are to be borne by each contracting party, and the basis upon which such proportion is fixed;

(*c.*) Where the agreement provides for the joint user of an Form 21.

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Sect. 246. Note.

The words in italics are repealed by sect. 29 of the Lunacy Act, 1891 (54 & 55 Vict. c. 65), and other provisions made in their place by sects. 13 and 14 of that Act to meet the difficulties raised in *Howlett* v. *Maidstone*, [1891] 2 Q. B. 110; 60 L. J. Q. B. 570; 65 L. T. 448; 40 W. R. 116; 55 J. P. 549.

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existing asylum, the sum to be paid by each contracting party towards expenses already incurred.

(2) Provisions in any agreement to unite, subjecting the visiting committee to any control not provided for by this Act, except the control of the Secretary of State, shall be of no effect.

Apportionment of expenses.

CCXLIX. The proportion in which the expenses of providing a district asylum are to be borne, as between the uniting counties and boroughs, may be fixed either according to the extent of the accommodation required for each county and borough, or in proportion to the respective population of each county or borough according to the last census for the time being.

Power to vary agreement to unite.

CCL. An agreement to unite may with the consent in writing of a majority of the visitors of each contracting local authority and with the sanction of the Secretary of State be altered or varied, but not so as to contain any provision which might not have been contained in an agreement to unite in the first instance.

Agreement to unite to be reported and delivered to clerk of local authority.

CCLI.—(1) Every agreement to unite shall as soon as possible be reported to the local authorities interested.

(2) The original of every agreement to unite, and of every agreement varying an agreement to unite, shall be delivered to the clerk of the local authority within whose administrative area the asylum to which the same relates is situate or is intended to be situate, and shall be kept by him among the records of the local authority.

(3) The original agreement so delivered may be inspected without payment by any commissioner and by any member of the council of any of the contracting local authorities.

(4) The clerk of a local authority to whom any such agreement is delivered shall cause copies to be made thereof, and shall within twenty days after delivery to him of the original send one copy to the commissioners and another copy to each of the contracting local authorities.

Application of money paid for expenses already incurred.

CCLII. Where under an agreement to unite a sum is to be paid towards the expenses already incurred by a local authority in relation to an existing asylum, the sum shall be paid to the treasurer of the local authority as part of the county or borough fund and shall be applied to purposes for which capital is properly applicable.

Visitors to be chosen.

CCLIII. When an agreement to unite has been reported, each local authority shall elect out of their body the number of visitors agreed to be chosen by them, and the visitors so chosen

shall carry the agreement into effect and shall be the visiting committee of the asylum until the election of a visiting committee in their place. Sect. 253.

*Purchase of Land and other Incidental Powers.*

CCLIV.—(1) A visiting committee authorized to provide asylum accommodation may agree upon plans and estimates, and contract for the purchase of lands and buildings with or without fittings and furniture, and for the erection, restoration, enlargement, and furnishing of buildings, and for the supply of clothing, and for all the matters necessary for carrying into effect the authority conferred upon them. Powers of committee to provide asylum.

(2) Plans and contracts [for the purchase of lands and buildings, and for the erection, restoration, and enlargement of buildings] agreed upon by a visiting committee shall not be carried into effect until approved by a Secretary of State.

(3) A visiting committee shall report to the local authority or local authorities by whom they were elected, all plans, estimates, and contracts agreed upon, and also the amount to be paid by each local authority, and such plans, estimates, and contracts shall be subject to the approval of the local authority, to whom they are to be reported, except where the amount to be expended does not exceed an amount previously fixed by the local authority.

(4) In the event of a difference between any local authorities as to whether any plan, estimate, or contract ought to be approved, the local authority withholding approval shall, within

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Sect. 254.

The words within brackets are introduced by sect. 16 of the Lunacy Act, 1891 (54 & 55 Vict. c. 65).

Note.

Sub-s. (2).

Where an architect was employed by a visiting committee, in pursuance of sect. 17 of 8 & 9 Vict. c. 126, "to prepare the requisite probationary drawings for the approval of the visiting committee, and all other drawings and documents required to be submitted to the Commissioners in Lunacy and afterwards to the Secretary of State, pursuant to the statutes, and subsequently to prepare the whole of the working drawings, estimates, and specifications for an asylum to contain two hundred patients," at a remuneration of 437*l.* 10*s.*, it was held that he could recover nothing until the drawings had been approved by the several parties whose approval was by the statute required, and the subsequent drawings and estimates were all completed (*Moffatt* v. *Dickson*, 13 C. B. 543; 22 L. J. C. P. 265; 17 Jur. 1009).

Sub-s. (3).

Under 8 & 9 Vict. c. 126, ss. 31, 36, it was held that it was not necessary that a contract for the sale of land to the committee of visitors of an asylum should be approved by quarter sessions before being signed by the parties (*Devenish* v. *Brown*, 26 L. J. Ch. 23; 2 Jur. (N. S.) 1043).

If the expense to be incurred do not exceed 400*l.* the approval of the local authority under this sub-section is dispensed with by sect. 266, *infra*.

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four months after the plan, estimate, or contract has been reported to them, send to a Secretary of State a statement in writing of their objections, and the Secretary of State may direct the plan, estimate, or contract to be carried into execution, with or without any alterations, or he may direct such other plan, estimate, or contract, as he thinks fit, to be carried into execution, and the decision of a Secretary of State under this section shall be final.

Additions to asylums for private patients.

CCLV. The visiting committee of an asylum, with the consent of each local authority by whom the asylum is provided, and with the approval in writing of a Secretary of State, may make such alterations in or additions to the asylum either by way of detached buildings or blocks of buildings or otherwise as they think fit for the purpose of providing accommodation for private lunatics.

Contracts.

CCLVI.—(1) Every person entering into a contract with a visiting committee shall give sufficient security for due performance of the contract.

(2) Every such contract and all orders relating thereto shall be entered in a book to be kept by the clerk of the visiting committee, and when the contract is completed the book shall be deposited and kept among the records of the local authority, or, when more than one local authority is interested, then among the records of the local authority which contributes the largest proportion of the expenses of the contract.

(3) Every such book may be inspected at all reasonable times by any person contributing to the rates of the local authority interested in the contract.

(4) A copy of every such book shall be kept at the asylum to which the contract relates.

Enlargement of district asylum.

CCLVII. A district asylum shall not be enlarged or improved without the consent of all the parties to the agreement under which the same is provided.

Burial grounds.

CCLVIII.—(1) The visiting committee of an asylum, with the consent of the local authority by whom they are appointed and of a Secretary of State, may provide for the burial of lunatics dying in the asylum, and of the officers and servants belonging thereto—

(*a.*) By appropriating any land already belonging to them or acquiring any land, not exceeding in either case two acres, for enlarging an existing burial ground, or for providing a new burial ground;

(*b.*) By agreeing with any corporation or persons or body of persons willing to provide for the burial of such lunatics and other persons as aforesaid.

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(2) The committee may procure the consecration of a new or enlarged burial ground, and in the case of a new burial ground, may provide for the appointment of a chaplain therein.

(3) The incumbent of the parish in which a new or enlarged burial ground provided by a visiting committee is situate, shall not be entitled to any fee for the interment of any person buried therein by direction of the committee.

Burial of lunatics.

CCLIX. Where a visiting committee undertakes the burial of any pauper lunatic, and the public burial ground of the parish where the death took place is closed or inconveniently crowded, the burial may take place in a public burial ground of some other parish, with the consent of the minister and churchwardens of that parish; and in that case the visiting committee shall pay to the person entitled thereto the burial fees payable under any Act or according to the custom of the place of burial.

Incorporation of Lands Clauses Acts.

CCLX. For the purpose of the purchase of lands by visiting committees the Lands Clauses Acts are hereby incorporated with this Act, except the provisions relating to the purchase of land otherwise than by agreement, the sale of superfluous lands, the recovery of forfeitures, penalties, and costs and access to the special Act, and the expression "promoters of the undertaking" wherever used in the Lands Clauses Acts shall mean a visiting committee, and the expression "special Act" shall mean this Act.

Power to take land on lease.

CCLXI.—(1) A visiting committee, instead of purchasing any land or buildings which they are authorized to purchase, may take a lease thereof for any term not less than sixty years at such rent and subject to such covenants as the committee think fit.

(2) A visiting committee, with the sanction of each local authority from whom they are authorized to act, may hire or take on lease from year to year, or for any term of years, at such rent and subject to such covenants as they think fit, any land or buildings for the employment of the patients in the asylum, or for the temporary accommodation of any pauper

Sect. 259. Note.

As a rule an incumbent was not entitled to any fee on the burial of a non-parishioner in a burial ground provided under the Burial Acts. (See Burial Act, 1852 (15 & 16 Vict. c. 85), s. 32, and *Wood* v. *Headingley-cum-Burley Burial Board*, [1892] 1 Q. B. 713; 66 L. T. 90; 40 W. R. 390; 56 J. P. 326.) But now under the Burial Act, 1900 (63 & 64 Vict. c. 20), s. 3, it would seem that if the burial authority allow a non-parishioner to be buried in the burial ground, any minister who actually performs the burial service is entitled to a fee.

Sect. 260. Note.

Local authorities have compulsory powers for the purpose of providing asylum accommodation under sect. 238 (4), *supra*. This section enables visiting committees to purchase lands from persons having limited interests. (See *Devenish* v. *Brown*, 26 L. J. Ch. 23; 2 Jur. (N. S.) 1043.)

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lunatics for whom the accommodation in the asylum is inadequate.

(3) Lands and buildings hired or taken on lease under this section shall be deemed part of the asylum, and be subject to all existing provisions as to the asylum.

Situation of asylum.

CCLXII. The asylum to be provided by any local authority either solely or jointly, may be situate without the limits of the administrative area of the local authority, and if the asylum or any part thereof is so situate, the council and justices of the county, county borough, or borough to which the asylum wholly or in part belongs shall have full power and authority to act in the county or borough in which the asylum is situate, so far as concerns the regulation of the asylum and the powers conferred by this Act, as if the asylum were situate within the proper jurisdiction of such council and justices.

Rating of asylums.

CCLXIII. Lands and buildings already or to be hereafter purchased or acquired for the purposes of any asylum, and

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Note.

Previous to 1889 it was provided by 16 & 17 Vict. c. 97, s. 35, that the assessment of lunatic asylums while used as such was not to be increased after the land and buildings for such asylums had been purchased or acquired. And it was consequently held that a county lunatic asylum, though many pauper lunatics not belonging to the county and some patients who were not paupers were confined in it, from both of which classes considerable profits were made, was not rateable in respect of such profits, but was to be assessed only at the same amount as the land on which it was built was assessed at the time of purchase. So also the profits made by the cultivation of a farm and garden attached to the asylum were excluded from consideration in making the assessment (*Reg.* v. *Fulbourn, Overseers*, 6 B. & S. 451; 34 L. J. M. C. 106; 12 L. T. (N. S.) 444; 11 Jur. (N. S.) 620; 13 W. R. 713).

Under the provisions of the present section the capacity of making such profits will now have to be taken into account in making the assessment; and the rateability of the premises will be determined upon the same principles as are applicable to school board buildings or sewage farms or works, as to which respectively see *Reg.* v. *London School Board*, 17 Q. B. D. 738; 55 L. J. M. C. 169; 55 L. T. 384; 34 W. R. 583; 50 J. P. 419; *Leicester, Mayor, &c., of* v. *Beaumont Leys Churchwardens*, 63 L. J. M. C. 176; 70 L. T. 659; *London County Council* v. *Erith*, [1893] A. C. 562; 63 L. J. M. C. 9; 69 L. T. 725; 42 W. R. 330; 57 J. P. 821, approving *Burton-on-Trent Corporation* v. *Eggington Churchwardens*, 24 Q. B. D. 197; 59 L. J. M. C. 1; 62 L. T. 412; 38 W. R. 181; 54 J. P. 453.

The payment of parochial and other rates charged upon the buildings of the asylum is included in the expression "the expenses of maintenance and other expenses of each pauper lunatic in the asylum" in sect. 283 of this Act, *infra*; and is properly made out of the maintenance fund of the asylum (*Reg.* v. *Dolby*, [1892] 2 Q. B. 301; 61 L. J. Q. B. 809; 67 L. T. 296; 56 J. P. 599).

The justices of the county were assessed to the income tax under

any additional building erected or to be erected thereon, shall, while used for those purposes, be assessed to county, parochial, district, and other rates made after the commencement of this Act on the same basis and to the same extent as other lands and buildings in the same parish, township, or district. Sect. 263.

CCLXIV. Any lands acquired for the purposes of this Act may be conveyed to the local authority being a county council, or in cases where the local authority is the council of a borough to the municipal corporation of the borough, or, where more than one local authority is interested, to the local authorities interested as joint tenants. How lands to be conveyed.

CCLXV. Any lands or buildings which have been used for the purposes of an asylum, and have been found unsuitable, or are otherwise not required for such purposes, may, with the consent of a Secretary of State, and subject to such conditions as he thinks fit to impose, be retained by the local authority, and appropriated for any purposes for which the local authority is empowered to acquire land. Power to retain land unsuitable or not required for asylum purposes.

CCLXVI.—(1) The visiting committee of an asylum may, of their own authority, order all necessary and ordinary repairs. They may also, of their own authority, order all necessary and proper additions, alterations, and improvements which the asylum may require, to an amount not exceeding four hundred pounds in any one year. Repairs, alterations, improvements.

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schedule (A.) of the Income Tax Act, 1842 (5 & 6 Vict. c. 35), in respect of such parts of a county lunatic asylum as were occupied by officers having an income of more than 150*l.* a year. It was held that the premises assessed were not in the occupation of the Crown, or of persons using them exclusively in and for the service of the Crown, and were therefore not exempt from assessment to the income tax; but, *quære*, whether the justices were the proper persons to be assessed? (*Bray* v. *Lancashire JJ.*, 22 Q. B. D. 484; 58 L. J. M. C. 54; 37 W. R. 392; 53 J. P. 499). Sect. 263. Note.

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For the purposes for which a "local authority" is empowered generally to acquire land see, as to county councils, the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 65; as to borough councils, the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), ss. 105, 107; and as to both borough and district councils, the Public Health Act, 1875 (38 & 39 Vict. c. 55), s. 175. There are also many special purposes for which local authorities are empowered to acquire land, such as land for the purposes of small holdings (55 & 56 Vict. c. 31), of allotments (56 & 57 Vict. c. 73) s. 9, of isolation hospitals (56 & 57 Vict. c. 68), &c. Sect. 265. Note.

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This sub-section dispenses with the necessity of obtaining the approval of the local authority to plans, estimates, and contracts required by sect. 254 (3), *supra*, when the expense to be incurred falls within the prescribed limit. Sect. 266. Note. Sub-s. (1).

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(2) An order for repairs, additions, alterations, or improvements to an amount exceeding one hundred pounds shall not be given, unless the order is approved and signed by at least three visitors at a meeting of the visiting committee duly summoned upon notice that the proposed expenditure is to be considered thereat.

(3) Any expenditure incurred, except for repairs, shall be reported by the visiting committee to the local authority on whose behalf the expenditure was incurred.

(4) In the case of a district asylum, the visiting committee shall apportion expenses incurred under this section in the proportion in which each local authority has contributed to the erection of the asylum, or where any other proportion is fixed by an agreement to unite them in the proportion so fixed; and where any such agreement only provides in what proportion the expense of repairs shall be borne, the expense of additions, alterations, and improvements shall be borne in the same proportion.

(5) The visiting committee shall make an order for payment of the expenses incurred under this section upon the treasurer of the local authority, or, in the case of a district asylum, shall make an order upon the treasurer of each local authority concerned for payment of the expenses apportioned to that local authority, and the treasurer upon whom the order is made shall pay the amount mentioned in the order out of the county or borough fund.

*Dissolution of Agreement to unite.*

Power to dissolve a union.

CCLXVII.—(1) A visiting committee, with the consent of a Secretary of State, may by a resolution passed by a majority of the whole number of the members of the committee at a meeting summoned upon notice that the resolution is to be proposed thereat dissolve an agreement to unite.

(2) Every local authority interested under an agreement to unite shall, before a dissolution of the agreement takes effect, elect a committee to provide asylum accommodation in accordance with the provisions of this Act.

(3) In case an agreement to unite is dissolved between any local authority not having an asylum and a local authority which has an asylum and is in receipt of an annual fixed payment as remuneration for any expenses incurred for the benefit of the local authority making the payment, such last-mentioned local authority may raise such a sum of money for compensation to the local authority receiving the payment as may be agreed upon and approved by the visiting committee by whom the union is dissolved.

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Note.

The raising of monies for the purposes of this part of this Act is provided for by sect. 274, *infra*.

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(4) Upon the dissolution of an agreement to unite the visiting committee may divide the real and personal property held for the purposes of the agreement among the several local authorities, between whom the agreement existed, in the proportion in which they contributed thereto or are interested therein, or in such proportions as the visiting committee, with the consent of a Secretary of State, think fit. And a sum of money of such amount, and to be raised by any of the local authorities parties to the agreement in such proportions as the committee, with the consent of a Secretary of State, approve, may be awarded to any local authority instead of a share or part of a share in such property.

(5) Any money to be raised under this section may be raised in the same manner and by the same means as other monies appointed to be raised for the purposes of this part of this Act.

*Cancellation of Contracts.*

Power to cancel contract.

CCLXVIII.—(1) Where any lands contracted to be purchased or taken in exchange by a visiting committee are found unsuitable, or are not required, the committee, or any committee appointed in their place, may, with the consent of a Secretary of State, and upon payment of such sum, if any, as a Secretary of State approves, procure a release from the contract and execute a release to the other contracting party.

(2) The consideration, if any, for such release, and all expenses in relation to the contract and release, shall be raised in the same manner as if the same were payable in respect of the purchase money of lands for the purposes aforesaid.

*Admissions of Pauper Lunatics from other Counties or Boroughs.*

Power to contract for reception of lunatics.

CCLXIX.—(1) A visiting committee (in this section called the contracting committee) may contract with the manager of a licensed house, or subject as in this section provided with any other visiting committee (in this section called the receiving committee), for the reception into that house, or into the asylum of the receiving committee, of all or any of the pauper lunatics of the local authority for which the contracting committee is acting, or for the use and occupation of the whole or any part of the house, upon such terms as may be agreed.

(2) Where a contract between a visiting committee and the subscribers to a hospital for the reception of pauper patients into the hospital was subsisting on the twenty-sixth of August

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Note.

Sub-s. (2).

By the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 17, this saving is extended to reception contracts subsisting between borough councils and registered hospitals.

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one thousand eight hundred and eighty-nine, such contract shall continue in force, and on its expiration a new contract may be entered into with such subscribers subject to the provisions of this section.

(3) A contract between a visiting committee and any other visiting committee or the manager of a licensed house or the subscribers to a hospital for the reception of the lunatics of the local authority for which the contracting committee is acting (herein-after called a reception contract) shall not be made for more than five years, but such contract may be renewed subject to the provisions of this section.

(4) Where a reception contract has been made, whether before or after the passing of this Act, on behalf of a borough with the visiting committee of an asylum, and the contract is determinable by the parties thereto, or either of them, the contract shall not be determined without the consent of a Secretary of State.

(5) A reception contract shall not be carried into effect until approved by a Secretary of State, and any reception contract may be determined by a Secretary of State.

(6) A reception contract with the manager of a licensed house shall determine if the house ceases to be licensed.

(7) A reception contract shall not exempt the local authority for which the contracting committee is acting from the requirements of this Act as regards asylum accommodation if a Secretary of State determines the contract, although the term for which the contract was entered into has not expired.

(8) Except as in this section provided a visiting committee shall not after the commencement of this Act enter into a reception contract with subscribers to a hospital.

(9) Where a reception contract has been made by a visiting committee, the local authority for whom the visiting committee acts shall, while the contract subsists, defray out of the county or borough fund so much of the weekly charge agreed upon for each pauper lunatic as in the opinion of the visiting committee represents the sum due for the accommodation, not exceeding one-fourth of the entire weekly charge, in exoneration to that extent of the union to which the maintenance of any such pauper lunatic is chargeable.

(10) Where a reception contract has been entered into by the visiting committee of an asylum with the subscribers to a hospital or the manager of a licensed house, the hospital or house may be visited by any members for the time being of the committee of the asylum.

Cases where asylum is more than sufficient for pauper lunatics.

CCLXX.—(1) Where it appears to the visiting committee of an asylum that the asylum is more than sufficient for the pauper lunatics who for the time being can be lawfully received,

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the committee may by resolution permit any other pauper lunatics to be received into the asylum.

(2) A resolution under this section may require that no pauper lunatic be admitted thereunder without an undertaking by the minute of the guardians of the union to which the lunatic is chargeable for the payment of the expenses of maintenance of the lunatic, and of his burial if he dies in the asylum, as well as for his removal within six days after notice from the manager of the asylum.

(3) A resolution under this section may be rescinded or varied.

*Admission of Private Patients.*

Provisions as to private patients in asylums.

CCLXXI.—(1) Private patients may be received into any asylum upon such terms as to payment and accommodation as the visiting committee think fit. All enactments as to the conditions on which such lunatics may be received into hospitals or licensed houses shall be applicable to private patients received into such asylums.

(2) An account of the amount, by which the sums charged for private patients received in the asylum exceed the weekly charges for pauper lunatics sent from or settled in any place, parish, or borough which has contributed to provide the asylum, shall be made up to the last day of each year, and the surplus, if any, after carrying to the building and repair funds such sums, and providing for such outgoings and expenses as the visiting committee consider proper, shall be paid to the treasurer of the local authority to which the asylum belongs, or in the case of an asylum belonging to several local authorities, to their respective treasurers in the proportions in which such local authorities or the justices of the counties and boroughs whose powers have been transferred to them have contributed to the asylum, and shall be applied as part of the county or borough fund.

*Approval of Secretary of State.*

Mode of obtaining approval of Secretary of State.

CCLXXII. For the purpose of procuring the approval of a Secretary of State to any agreement, contract, or plan requiring approval under this Act, the agreement, contract, or plan, with an estimate of the probable cost of carrying it into effect, shall be submitted to the commissioners, and to the Secretary of State, and the commissioners shall make such inquiries as they think fit, and shall report thereon to the Secretary of State, who may approve the agreement, contract, or plan, with or without modification, or may refuse his approval.

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Sect. 271. Note.

The transfer of powers from justices of counties and boroughs to the "local authorities" is effected by the Local Government Act, 1888 (51 & 52 Vict. c. 42), ss. 3, 36.

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*Provisions for raising Expenses.*

CCLXXIII. The expenses to be paid and contributed by a local authority for the purposes of this Act shall be paid by the treasurer of the local authority out of the county or borough fund as the case may be to the treasurer of the asylum to which such local authority either alone or jointly pays or contributes.

*Borrowing Powers.*

Power to borrow.

CCLXXIV.—(1) For the purpose of paying any money payable under this Act, or for repaying any monies borrowed under this Act or any former Act, authorizing borrowing for purposes of asylum accommodation, the local authority may with the consent of the Local Government Board, and subject to the provisions of the Local Government Act, 1888, and the Municipal Corporations Act, 1882, according as the same respectively are applicable to the local authority, borrow on the security of the county or borough fund, and of any revenue of the local authority, or on either such fund or revenues or on any part of the revenues, such money as the local authority requires.

51 & 52 Vict. c. 41.
45 & 46 Vict. c. 50.

(2) The Public Works Loan Commissioners may, if they see fit, make any loan for the purposes of this Act to the local authority upon the security of any fund or revenues applicable to the purposes of this Act.

*Rules and Regulations.*

General rules and regulations to be framed.

CCLXXV.—(1) The visiting committee of an asylum shall within twelve months after the completion of the asylum prepare and submit to a Secretary of State general rules for the government of the asylum, and such rules when approved by a Secretary of State shall be printed and observed.

(2) The general rules of every asylum may be altered and varied with the approval of a Secretary of State.

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Sect. 273. Note.

The provisions of this section do not apply to Lancashire. (See 54 & 55 Vict. c. xx., ss. 22, 23.)

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Sect. 274. Note.

The provisions of this section do not apply to Lancashire. (See 54 & 55 Vict. c. xx., ss. 22, 31.)

Sub-s. (1).

The borrowing powers of county councils are regulated by the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 69; and of borough councils by the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), ss. 106—113.

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Sect. 275. Note.

Disobedience to rules which a statute directs shall be observed is a misdemeanour punishable on indictment by fine or imprisonment or both (*Reg.* v. *Price*, 11 A. & E. 727; *Reg.* v. *Walker*, L. R. 10 Q. B. 355; 44 L. J. M. C. 169; 33 L. T. (N. S.) 167).

Sub-s. (1).

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(3) The visiting committee shall also make regulations (not inconsistent with the general rules) setting forth the number and description of officers and servants and their respective duties and salaries.

(4) The regulations may provide that any number of beds in such part of the asylum as the committee think fit shall be reserved for the cases specified in the regulations, and in that case the asylum shall for the purposes of this Act, as respects the admission of cases not within the class for which beds are reserved, be deemed full when there are no vacant beds except those so reserved, but the committee may, if they think fit, fill any reserved beds.

(5) The regulations may also provide for the exclusion of any persons afflicted with any malady which the visiting committee deem contagious or infectious or coming from a place in which such a malady may be prevalent, and for the absence for a period not exceeding four days of a patient from the asylum by permission of the manager.

(6) The committee shall also determine the diet of the patients.

*Officers of Asylums.*

Officers of asylums.

CCLXXVI.—(1) The visiting committee of every asylum shall appoint :—

(*a.*) A chaplain, who shall be in priest's orders, and shall be licensed by the bishop of the diocese ;

(*b.*) A medical officer, who shall reside in the asylum and shall not be the clerk or treasurer of the asylum ;

(*c.*) A superintendent of the asylum, or, if there is more than one division, a superintendent of each division of the asylum, who shall be the resident medical officer or one of the resident medical officers of the asylum, or of the division of which he is appointed superintendent, unless a Secretary of State authorize the committee to appoint some other person than a medical officer to be superintendent ;

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Note.

Sub-s. (1).

Although the chaplain is not required by statute to reside in the asylum, he may be required to do so by the visiting committee, and the application of funds for the purposes of providing him with a residence is not *ultra vires* (*Congreve* v. *Upton, Overseers*, 4 B. & S. 857 ; 33 L. J. M. C. 83 ; 9 L. T. (N. S.) 684 ; 10 Jur. (N. S.) 538 ; 12 W. R. 403).

The medical officer must be registered under the Medical Act, 1858 (21 & 22 Vict. c. 90), s. 36. As he is required by statute to reside in the asylum, he is exempt from being assessed to the inhabited house duty, although the residence provided for him is detached from the main buildings of the asylum (*Jepson* v. *Gribble*, 1 Ex. D. 151 ; 45 L. J. Exch. 502 ; 34 L. T. (N. S.) 493 ; 24 W. R. 460).

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(*d.*) A clerk;

(*e.*) A treasurer;

(*f.*) Such other officers and servants as they think fit.

(2) The visiting committee may appoint a minister of any religious persuasion to attend patients of the religious persuasion to which the minister belongs.

(3) The committee may remove any person appointed under this section, and if the office of chaplain, medical officer, superintendent, clerk, or treasurer becomes vacant, the committee shall appoint a person to fill the vacancy subject to the restrictions affecting the original appointment, and they may in their discretion fill any vacancies among other officers and servants of the asylum.

(4) The committee may also appoint a visiting physician or surgeon to the asylum.

(5) The salaries, wages, and remuneration of every person appointed under this section shall be fixed by the committee.

CCLXXVII.—(1) The licence of the chaplain of an asylum shall be revocable by the bishop.

The chaplain.

(2) The chaplain, or his substitute approved by the committee, shall perform in the chapel of the asylum, or in some other convenient place belonging to the asylum, divine service according to the rites of the Church of England on every Sunday, Christmas Day, and Good Friday. He shall also perform divine service, and such other services according to the rites of the Church of England as the committee direct, at such times as they appoint.

(3) If a patient is of a religious persuasion differing from that of the Established Church, a minister of his persuasion, at the request of the patient or his friends, may, with the consent of the medical officer and under such regulations as he approves, visit the patient.

Books and accounts.

CCLXXVIII.—(1) The clerk of the asylum shall keep all books and documents which the visiting committee are required to keep or direct to be kept.

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Note. Sub-s. (3).

Under a corresponding section of 9 Geo. 4, c. 40, s. 30, the visiting justices were held to have the power of dismissing the chaplain at their discretion, although by sect. 32 of that Act the chaplain appointed had to be licensed by the bishop, who also had power to revoke such licence (*Reg.* v. *Visiting Justices of Middlesex Pauper Lunatic Asylum*, 2 Q. B. 433; 6 Jur. 682).

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Note. Sub-s. (1).

Chaplains of lunatic asylums are subject to the provisions of the Private Chapels Act, 1871 (34 & 35 Vict. c. 66).

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Note. Sub-s. (1).

The provisions of the Local Government Act, 1888, relating to the accounts of county councils and their officers, and to the audit

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(2) He shall also keep an account of the receipts and expenditure on account of the asylum.

(3) Before the thirtieth day of September in each year, or such other date as the Local Government Board appoint, he shall send an abstract of the account for the previous year, ending on the thirty-first day of March, or such other date as the Local Government Board appoint, to the Local Government Board, and to the commissioners.

(4) The abstract shall contain such particulars and be in such form as the Local Government Board direct.

(5) Within one month from the receipt of the abstract a copy thereof shall be laid before both Houses of Parliament, if Parliament is then sitting, and if not, within one month from the commencement of the next session.

(6) The treasurer and every officer of an asylum who receives or expends money or goods on account of the asylum shall keep accounts of his receipts and expenditure.

(7) This section shall not affect any order made by the Local Government Board before the commencement of this Act.

[Sect. 279. *Accounts of county asylums:* Repealed by the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 29, and replaced by sect. 18 of that Act.]

*Pensions.*

Pensions to officers.

CCLXXX.—(1) The visiting committee may grant to any superintendent, chaplain, matron, or other officer or servant of the asylum, who is incapacitated by confirmed illness, age, or infirmity, or who has been an officer or servant in the asylum for not less than fifteen years and is not less than fifty years old, such superannuation allowance as the committee think fit.

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Sect. 278. Note. Sub-s. (1).

of such accounts are applied to the accounts of every asylum belonging wholly or in part to a county council, and of the visiting committee and officers thereof, by the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 18.

Sect. 280. Note. Sub-s. (1).

A chaplain of a lunatic asylum appointed under 16 & 17 Vict. c. 97, s. 57, performed the duties of his office in the asylum, but did not reside therein or give his whole time to the duties of his office. The visiting committee granted him a superannuation allowance on his retirement, but the county council refused to pay the same, on the ground that, though the chaplain was an officer of the asylum, he was not an officer in the asylum, and therefore not entitled to a pension. *Held* that there was no distinction between an officer of, and an officer in the asylum, and that the chaplain was entitled to be paid such pension as the visiting committee in their discretion should award him (*Reg.* v. *Hereford County Council*, 63 L. T. 245; 38 W. R. 775; 55 J. P. 72).

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(2) Where the offices of superintendent and matron are held by man and wife, and a superannuation allowance has been granted to the superintendent, the committee may, if the matron has been an officer of the asylum for not less than twenty years, grant her such superannuation allowance as they think fit, although she is not incapacitated by illness, age, or infirmity: Provided that, if any such matron is appointed to a public office or to any office under this Act in respect of which she receives a salary, her superannuation allowance shall, so long as she receives such salary, be suspended or diminished by the amount of the salary according as the salary is or is not greater than the allowance.

(3) A superannuation allowance shall not exceed two-thirds of the salary paid to the superannuated person at the date of superannuation and such further sum (if any) as the visitors think fit to grant, having regard to the value of the lodgings, rations, and other allowances enjoyed by the superannuated person.

Mode in which pension to be granted.

CCLXXXI.—(1) A superannuation allowance shall not be granted unless seven clear days' notice of the meeting at which the same is to be granted, and of the intention to determine thereat the question of such grant, has been given, nor unless three visitors concur in and sign the order granting the same.

(2) A superannuation allowance granted under this Act shall be paid out of the county or borough fund as the case may be.

(3) A superannuation allowance payable out of the county fund shall not be paid until the grant thereof has been confirmed by the county council.

Service in several asylums of the same local authority.

CCLXXXII. When any officer is transferred from one asylum to another, wholly or in part belonging to the same local authority, his service in all such asylums shall be counted for the purpose of computing his pension, superannuation allowance, or gratuity for length of service, as if all such asylums had constituted only one asylum.

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Sect. 281. Note.

Confirmation of the grant by a county council is required in consequence of sect. 80 of the Local Government Act, 1888 (51 & 52 Vict. c. 41), under which no order of the county council is requisite for payments out of the county fund in pursuance of the specific requirement of an Act of Parliament. Confirmation by a borough council is not specially required, as no payments of expenses charged by Act of Parliament on the borough fund can be made without an order of the council. (See Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 140, and schedule (V.), part 2, r. 11.)

## PART X.

## EXPENSES OF PAUPER LUNATICS.

### *Weekly Expenses.*

Sect. 283.

Weekly sum to be fixed.

CCLXXXIII.—(1) Every visiting committee shall fix a weekly sum, not exceeding fourteen shillings, for the expenses of maintenance and other expenses of each pauper lunatic in the asylum, and of such amount that the total of such weekly sums shall be sufficient to defray such expenses and also the salaries of the officers and attendants of the asylum, and such weekly sum may from time to time be altered.

(2) If fourteen shillings a week is found insufficient for the purposes aforesaid, the local authority to whom the asylum belongs may by order direct such addition to be made to the weekly sum as to the local authority seems necessary, and every such order shall be signed by the clerk of the local authority, and forthwith published in a local newspaper.

(3) A committee may fix a greater weekly sum, not exceeding fourteen shillings, to be charged in respect of pauper lunatics other than those sent from or settled in a parish or place within the county or borough to which the asylum belongs.

(4) Any excess created by the payment of such greater weekly sum may, if the visiting committee think fit, be paid over to a building and repair fund, to be applied by the committee to the altering, repairing, or improving the asylum, and the committee shall annually submit to the local authority a detailed statement of the manner in which such fund has been expended.

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For amounts payable by county and borough councils to guardians for maintenance of pauper inmates, see Local Government Act, 1888, ss. 24 (2) (*f*), 34.

Note.

Sub-s. (1).

The expression "the expenses of maintenance and other expenses of each pauper lunatic" includes the payment of parochial and other rates charged upon the buildings of the asylum, and payment of such rates may lawfully be made by the visiting committee out of the maintenance fund of the asylum (*Reg.* v. *Dolby*, [1892] 2 Q. B. 301; 61 L. J. Q. B. 809; 67 L. T. 296; 56 J. P. 599).

If the weekly sum fixed by the visiting committee produce an excess of receipts over the expenses of management, the unions which have contributed thereto are not entitled to a return of any part of the monies so contributed; and if the visiting committee do not apply such excess to any purpose for which they are authorized to apply it, they hold it subject to the control of the local authority (*Proctor* v. *Cheshire County Council*, 56 J. P. 532).

Sub-s. (3).

As to payment of extra charges by a borough which has not contributed to cost of the asylum, see Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 23; and as to payment of charges where a pauper lunatic is sent from a borough to a licensed house or registered hospital, see Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 26.

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Uniform charge where more than one asylum.

CCLXXXIV. Where there is more than one asylum under the management and control of a visiting committee, the committee may, subject to any direction given by the local authority, provide that a uniform charge shall be made for the maintenance of lunatics in the several asylums, and that for that purpose any surplus arising on the accounts of one asylum shall be applied to meet the deficit arising on the accounts of another asylum.

*Medical Fees and other Expenses.*

Payment of medical fees and other expenses.

CCLXXXV.—(1) Whenever a justice directs a lunatic or alleged lunatic, whether a pauper or not, to be examined by a medical practitioner under the provisions of this Act, the justice directing the examination, or any other justice having jurisdiction in the place where the examination took place, may make an order upon the guardians of the union named in the order for payment of such reasonable remuneration to the medical practitioner and of all such other reasonable expenses in and about the examination and the inquiry, whether an order for the reception of the alleged lunatic in an institution for lunatics or workhouse ought to be made, and also if an order is made for payment of such reasonable expenses of carrying the order into effect as the justice thinks proper.

(2) The guardians upon whom an order is made under this section may recover any sums paid thereunder against the lunatic or alleged lunatic and his estate, and the person or authority legally liable for his maintenance as in the case of orders for maintenance under this Act.

*Liability for Expenses of Maintenance.*

Chargeability of pauper lunatic.

CCLXXXVI.—(1) Where a pauper lunatic is sent to an institution for lunatics, or where a lunatic in an institution

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Sect. 285.

Note.

Sub-s. (1).

The expenses mentioned in the order may be recovered from the guardians under sect. 314, *infra*; or the guardians may pay without an order, under sect. 295, *infra*.

Sub-s. (2).

Guardians who have incurred expenses in respect of an alleged lunatic may recover them, although no order is made. A person suffering from *delirium tremens* became violent in his own house, and a relieving officer ordered his removal to the workhouse, where he was kept some days. He was then examined by a doctor and brought before the justices as a lunatic, but was held not to be a lunatic. The guardians incurred expenses in these proceedings, and it was held that, apart from the Lunacy Acts, there was a common law liability upon such person to repay to the guardians the expenses so incurred, and that the guardians therefore could recover such money as money expended by them on necessaries for the benefit of the defendant (*West Ham Union* v. *Pearson*, 62 L. T. 638; 54 J. P. 645).

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Sect. 286.

Note.

Sub-s. (1).

The provisions of this Act for establishing the settlement of a pauper lunatic will be found in sects. 288—290, *infra*.

For provision as to sending a lunatic in a hospital or licensed

for lunatics becomes a pauper, he shall be deemed to be chargeable to the union from which he was sent, until it has been established, as by this Act provided, that the lunatic is settled in some other union, or that it cannot be ascertained in what union the lunatic was settled, and the manager of the institution shall forthwith give to the authority liable for his maintenance notice that the lunatic has become destitute. Sect. 286.

(2) Every pauper lunatic who is chargeable to a union shall, while he resides in an institution for lunatics, be deemed for the purposes of his settlement to be resident in the union to which he is chargeable.

CCLXXXVII.—(1) The justice by whom any pauper lunatic is sent to any institution for lunatics under this Act, or any two justices of the county or borough in which the institution for lunatics where any pauper lunatic is confined is situate, or from any part of which any pauper lunatic has been sent, or any two justices, being visitors of such institution, may make an order upon the guardians of the union to which the lunatic is chargeable, for payment to the treasurer, or manager of the Orders for maintenance of lunatics.

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house who becomes a pauper to an institution for lunatics, see Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 19 (1). Sect. 286.

Before this Act there was no provision as to the liability for maintenance of a lunatic in an institution for lunatics who became a pauper. (See *Ipswich Union* v. *Macclesfield Union*, 63 L. T. 526; 39 W. R. 221; 55 J. P. 134.) Note. Sub-s. (1).

By the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), s. 4, the removal of a lunatic to an institution for lunatics is not to be deemed an interruption of the residence which confers a status of irremovability under the Poor Removal Act, 1846 (9 & 10 Vict. c. 66), and the time spent in such institution is to be excluded from computation. Sub-s. (2).

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An order under this section may be made *ex parte* (*Reg.* v. *Bruce*, [1892] 2 Q. B. 136; 40 W. R. 686; 56 J. P. 567), and may be made for the payment of expenses incurred more than twelve months previous to the date of the order (*Finch* v. *York Union*, 2 Q. B. D. 15; 46 L. J. M. C. 120; 35 L. T. 708; 25 W. R. 42). The provision that such orders may be retrospective was necessary in consequence of the decision of the Queen's Bench to the contrary with regard to the previous law. (See *Bradford Union* v. *Wiltshire, Clerk of the Peace*, L. R. 3 Q. B. 604; 37 L. J. M. C. 129; 18 L. T. (N. S.) 514; 16 W. R. 1197.) Sect. 287. Note.

The reason why there should be no appeal is that the order is a mere interim order, and may be superseded at any time by an order under sects. 289 or 290, *infra*. (See *Kettering Union* v. *Northampton Lunatic Asylum*, 6 B. & S. 653; 34 L. J. M. C. 189; 13 L. T. (N. S.) 199; 11 Jur. (N. S.) 299; and *Reg.* v. *Bruce*, *supra*.)

If an order is made under this section when there is a previous order adjudicating the settlement of the lunatic still in force, and proceedings are taken before a county court judge under sect. 314

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institution, of the reasonable charges of the lodging, maintenance, medicine, clothing, and care (in this Act referred to as the expenses of maintenance) of such lunatic.

(2) Any such order may be retrospective or prospective, or partly retrospective and partly prospective.

(3) An order under this section shall not be subject to appeal.

Inquiry into settlement.

CCLXXXVIII. Any two justices for the county or borough in which an institution for lunatics where a pauper lunatic is or has been confined is situate, or to which such institution being an asylum wholly or in part belongs, or from any part of which any pauper lunatic is or has been sent for confinement, may, at any time, inquire into the settlement of the pauper lunatic.

Adjudication as to settlement.

CCLXXXIX. If satisfactory evidence can be obtained as to such settlement in any union, such justices shall, by order,

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Sect. 287. Note.

of this Act upon the order made under this section, evidence is admissible of, and the county court judge is bound to take judicial notice of the previous order of adjudication. Thus in 1891 the guardians of Stow Union obtained an order in petty sessions adjudicating the settlement of a pauper lunatic to be N., and ordering the guardians of N. Union to pay the Suffolk County Asylum a sum for the maintenance and expenses of the lunatic. On appeal to quarter sessions this order was affirmed. The order of quarter sessions was brought up on *certiorari* and quashed, on the ground that one of the justices was interested, being a guardian. In December, 1896, two justices of the county of Suffolk made an order under this section, adjudging the lunatic to be settled in the Stow Union. A claim was then brought under sect. 314 by the Suffolk County Asylum to recover from the Stow Union the expense of maintenance of the pauper lunatic. *Held* that the county court judge was bound to take judicial notice of the order adjudicating the settlement of the lunatic made in 1891, and that that order was not affected by the quashing on *certiorari* of the affirming order of quarter sessions on grounds that did not go to the merits (*Suffolk County Lunatic Asylum* v. *Stow Union*, 76 L. T. 494; 45 W. R. 620; 61 J. P. 328).

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Sect. 288. Note.

Under this section the inquiry may be held after the lunatic has been discharged from the institution. (Compare *Reg.* v. *Wolverhampton*, 14 Q. B. 318; 19 L. J. M. C. 25.)

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Sect. 289. Note.

An order under this section may be made *ex parte* (*Reg.* v. *Bruce*, [1892] 2 Q. B. 136; 40 W. R. 686; 56 J. P. 567); and an appeal lies against it by the guardians of any union aggrieved thereby (sect. 303, *infra*). The order may be obtained by the guardians of any union, and may be made on the guardians of a union which is not within the jurisdiction of the justices (sect. 292, *infra*), and shall extend to the payment of future expenses to the treasurer or manager of any institution for lunatics to which any lunatic may

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adjudge the settlement, and order the guardians of the union to pay to the guardians of any other union the expenses incurred in or about the examination of the lunatic and the bringing him before a justice or justices, and his removal and conveyance to or from any institution for lunatics (in this Act referred to as the incidental expenses), and all monies paid by such last-mentioned guardians to the treasurer or manager of the institution for the expenses of maintenance of the lunatic, and incurred within twelve months previous to the date of such order, and, if the lunatic is still in confinement, also to pay to

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Note.

be removed or in which he may be confined (sect. 293, *infra*). If the lunatic is *de facto* confined in an asylum, irregularity in any of the preliminary proceedings with regard to the lunatic does not affect the jurisdiction of the justices to make this order (*Reg.* v. *Rhyddlan*, 14 Q. B. 327; 19 L. J. M. C. 110; *Reg.* v. *Winster*, 14 Q. B. 349; *Reg.* v. *Faversham*, 2 B. & S. 275; 31 L. J. M. C. 116; 6 L. T. (N. S.) 415; 26 J. P. 310).

An order adjudging a pauper lunatic to be irremovable from a certain union, and ordering the guardians of that union to repay to the guardians of the union from which the lunatic was sent to the asylum all monies paid by the latter for maintenance, &c., and the expenses of future maintenance, &c., of the lunatic is properly made under this section, may be made *ex parte*, and is subject to appeal to quarter sessions under sect. 303, *infra* (*Reg.* v. *London JJ., Ex parte Edmonton Guardians*, 60 J. P. 456).

The adjudication of the settlement and the direction for payment of the costs of maintenance must be made by the same justices and comprehended in one order (*Reg.* v. *Tyrwhitt*, 17 L. J. M. C. 141). When the order requires as the cost of future maintenance the weekly sum to be paid to the treasurer or superintendent of a public lunatic asylum for a county, it must state expressly that such weekly sum is the sum which has been fixed by the visitors of the asylum; otherwise the order will be bad (*Reg.* v. *Cornwall JJ.*, 14 L. J. M. C. 46). And where the lunatic is confined in a private asylum or licensed house, it is usual to state that the weekly sum stated is the sum charged by the proprietor in that behalf, and that it appears to the justices to be a reasonable charge; and there may be added "or such other weekly sum as the proprietor shall hereafter and from time to time reasonably charge" for the lodging, maintenance, &c. (*Reg.* v. *Hatfield Peverel*, 14 Q. B. 298; 18 L. J. M. C. 225).

The order should show that the expenses of maintenance have been incurred within twelve months previous to the date of the order, but this limitation does not apply to the incidental expenses. An order which does not show that expenses of maintenance were incurred within the twelve months may be quashed as to that part on *certiorari* (*Reg.* v. *Winster*, 14 Q. B. 349). The order cannot be objected to on the ground that it contains no sufficient recital of the order sending the lunatic to the asylum, which will be presumed to be good until the contrary is shown (*Reg.* v. *Crediton*, 1 E. B. & E. 231; 27 L. J. M. C. 265; 31 L. T. 114; 4 Jur. (N. S.) 926). The order may be made although the lunatic has been discharged from the asylum at the date of the order (*Reg.* v. *Manchester*, 6 E. & B. 919; 26 L. J. M. C. 1; 28 L. T. 82; 2 Jur. (N. S.) 1205).

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the treasurer or manager of the institution the reasonable expenses of the future maintenance of such lunatic.

If settlement cannot be ascertained a pauper lunatic may be made chargeable to a borough or county.

CCXC.—(1) If a pauper lunatic is not settled in the union from which he was sent to an institution for lunatics, and his settlement cannot be ascertained, and the lunatic was sent from a quarter sessions borough which is free from contributing to the payment of the expenses of pauper lunatics chargeable to the county in which the borough is situate, or from a place not in such a borough, then the relieving officer of the union shall give to the clerk of the local authority within whose area the lunatic is found ten days' notice to appear before two justices having jurisdiction within such area, at a time and place to be appointed in the notice.

(2) Upon the appearance of the clerk of the local authority, in person or by deputy, or in case of non-appearance upon proof of due service of the notice, any two or more such justices may inquire into the circumstances of the case, and adjudge the pauper lunatic to be chargeable to the local authority, and may order the treasurer of the local authority to pay to the guardians of any union the incidental expenses of the lunatic, and all monies paid by such guardians to the treasurer or manager of the institution for lunatics for the expenses of maintenance of the lunatic, and incurred within twelve months

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Note.

Sub-s. (1).

As to quarter sessions boroughs which are free from contributing to the payment of the expenses of pauper lunatics chargeable to the county, see the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 153, and the Local Government Act, 1888 (51 & 52 Vict. c. 41), ss. 32 (3), 35 (2), 37, 38.

Persons born in Scotland, Ireland, or the Channel Islands, who have acquired no settlement in England, are persons whose settlement cannot be ascertained within the meaning of this section, notwithstanding the provisions of the Poor Removal Act, 1845 (8 & 9 Vict. c. 117) (*Somersetshire, Clerk of the Peace*, v. *Shipham*, 3 B. & S. 507; 30 L. J. M. C. 83; 9 Jur. (N. S.) 869; 7 L. T. (N. S.) 673; 27 J. P. 437); but not the legitimate children born of such parents in England, as they are deemed to have a birth settlement where they are born (*Reg.* v. *Newchurch*, 3 B. & S. 107; 32 L. J. M. C. 19; 7 L. T. (N. S.) 271; 9 Jur. (N. S.) 536.

An order for the adjudication of a pauper lunatic may be made by justices sitting at the workhouse of the union or parish (*Bath Union* v. *Paddington*, 62 J. P. 521).

Sub-s. (2).

No appeal lies against an order made under this sub-section adjudging a pauper lunatic to be chargeable to a local authority, and directing payment by the treasurer of such authority of the expenses mentioned therein (*Wilson* v. *Liverpool Overseers*, 19 Q. B. 303; 20 L. J. M. C. 232).

The incidental expenses (see sect. 289) which may be ordered to be paid under this sub-section are not limited to such expenses as have been incurred within the previous twelve months (*Reg.* v. *Winster*, 14 Q. B. 344).

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previous to the date of the order, and if the lunatic is still in confinement, to pay to such treasurer or manager the expenses of the future maintenance of the lunatic.

(3) Such justices may direct such further inquiries as they think fit to ascertain the union in which any pauper lunatic is settled, and delay their adjudication until after such further inquiries.

(4) Every local authority to whom a pauper lunatic is adjudged to be chargeable may at any time thereafter inquire as to the union in which the lunatic is settled, and may procure him to be adjudged to be settled in any union.

Provision for reimbursement of expenses of a lunatic afterwards adjudged to be settled in a union.

CCXCI. If after a pauper lunatic has been sent to an institution for lunatics, and has been adjudged chargeable to a local authority, the local authority procure the lunatic to be adjudged to be settled in a union, any two justices of the county or borough in which the institution where the lunatic is confined is situate, or from any part of which the lunatic was sent for confinement, or any two justices, being visitors of the institution, may make an order upon the guardians of the union for payment to the treasurer of the local authority of all expenses of maintenance of the lunatic paid by such treasurer to the treasurer or manager of the institution, and incurred within twelve months previous to the order, and, if the lunatic is still in confinement, also for payment to such treasurer or manager of the expenses of the future maintenance of the lunatic.

Orders as to lunatic paupers.

CCXCII.—(1) Justices by this Act authorized to make orders for payment of expenses upon guardians of unions, may make such orders, although the union is not within the jurisdiction of the justices.

(2) Orders as to the settlement or chargeability of pauper lunatics and for payment of expenses may be obtained by the guardians of any union.

Order for maintenance to extend to any place where the lunatic is.

CCXCIII. An order for payment of the future expenses of maintenance of a lunatic shall extend to the payment of such

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Sect. 290.

Note.

Sub-s. (4).

As to the effect of this sub-section (which re-enacts part of 16 & 17 Vict. c. 97, s. 98), see *All Saints, Poplar*, v. *Middlesex, Clerk of the Peace*, 2 E. & E. 829; 29 L. J. M. C. 186; 2 L. T. (N. S.) 215; 6 Jur. (N. S.) 823; 24 J. P. 661.

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Sect. 291.

Note.

For meaning of "expenses of maintenance," see sect. 287 (1), *supra*.

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Sect. 292.

Note.

Sub-s. (1).

As to what justices are so authorized, see sects. 285, 287, 289, 291, *supra*.

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expenses to the treasurer or manager of any institution for lunatics to which he is removed or in which he is for the time being confined.

The costs of pauper lunatics who are irremovable.

CCXCIV. All incidental expenses and expenses of maintenance of a lunatic removed to an institution for lunatics who would at the time of his removal have been exempt from removal to the parish of his settlement or the country of his birth by reason of some provision of the Poor Removal Act,

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Note.

The Poor Removal Act, 1846 (9 & 10 Vict. c. 66), has been amended as follows: Sect. 1, amended by 24 & 25 Vict. c. 55, s. 1, 28 & 29 Vict. c. 79, s. 8, and 29 & 30 Vict. c. 113, s. 17, and the last proviso, repealed by 11 & 12 Vict. c. 111, s. 1; sect. 6, explained by 14 & 15 Vict. c. 105, s. 11; sect. 10, repealed by the S. L. R. Act, 1875. As to irremovability generally, see Archbold's Poor Law, 15th ed., pp. 603 *et seq.*

This section is practically identical with sect. 102 of 16 & 17 Vict. c. 97, now repealed, and the cases decided upon that section apply equally to the interpretation to be placed upon this section.

Although no express power is given by this section to justices to make an order for payment of the expenses of maintenance of a lunatic upon the union in which such lunatic had acquired a status of irremovability, such power is nevertheless implied (*Leeds Guardians* v. *Wakefield Union*, 7 E. & B. 258; 26 L. J. M. C. 37; 28 L. T. 265; 3 Jur. (N. S.) 292; 21 J. P. 582).

To bring a case within this section the lunatic must be irremovable from the union to be charged at the time he is sent to the asylum (*Reg.* v. *St. Anne, Blackfriars*, 22 L. J. M. C. 137). If at the time he is sent to the asylum he is irremovable, the liability of the union is not affected by the fact that he subsequently loses his status of irremovability. Thus a boy, eighteen years of age, having resided unemancipated with his father for more than five years in A., in the S. Union, became insane, and was removed to an asylum, the expense of his maintenance being paid by the S. Union. After three years, the lunatic being still in the asylum, the father removed altogether from A., upon which an order was made, adjudging the lunatic to be settled in G., the place of his father's settlement, and directing that parish to pay the costs of his maintenance, &c. *Held* that such order was invalid, and that the costs of maintenance ought still to be borne by the S. Union, for that at the time of his being conveyed to the asylum the lunatic was exempt from removal under 9 & 10 Vict. c. 66, coupled with 11 & 12 Vict. c. 111, which must be taken as incorporated with it (*Reg.* v. *St. Giles-in-the-Fields*, 3 E. & E. 224; 30 L. J. M. C. 12; 3 L. T. (N. S.) 292; 7 Jur. (N. S.) 161; 24 J. P. 756).

Where at the date of sending a wife to an asylum the husband was irremovable from the union in which he was then residing, but while his wife was in the asylum left that union, the lunatic wife was held to be still chargeable to that union (*Thame* v. *Wandsworth*, 36 J. P. 167).

Where a woman who is residing separate from her husband and in a different union is sent to an asylum as a pauper lunatic, the order for her maintenance is properly made on the union of her husband's settlement, and ought not to be made on the union from

1846, as amended by subsequent Acts, shall be paid by the guardians of the union wherein the lunatic has acquired such exemption, and no order shall be made in respect of such lunatic under any provision contained in this or any other Act upon the guardians of the union in which the lunatic is settled while the above-mentioned expenses are to be paid and charged as herein provided. Sect. 294.

Charges may be paid without orders of justices.

CCXCV. The guardians upon whom an order might by made under this Act for the payment of any money may pay the

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which the husband is irremovable by reason of residence (*Reg.* v. *East Retford Guardians*, 3 B. & S. 122; 32 L. J. M. C. 17; 27 J. P. 229; S. C. *Reg.* v. *St. Clement Danes*, 7 L. T. (N. S.) 315). Sect. 294. Note.

Where a man (before 1865) had resided six years in a parish, but during three of those years his wife had been confined in a lunatic asylum, at his instance, and at the cost of his parish of settlement, and the wife again became lunatic, and was sent to an asylum, an order for her maintenance was properly made on the parish of settlement, and not on the parish of residence (*Reg.* v. *St. George's, Bloomsbury*, 4 B. & S. 108; 32 L. J. M. C. 217; 27 J. P. 662).

A single woman, whose settlement was in the E. W. Union, had gained a status of irremovability by residence in the R. Union. She became lunatic, and was removed by her parents to their residence in the S. Union, and the next day was taken to the S. Union workhouse, where she remained eight days, and was then removed to the county asylum as a pauper lunatic. It was held that the order for her maintenance was properly made on the R. Union and not on the E. W. or S. Union, on the ground that as she had acquired a status of irremovability in R. Union, her mere bodily removal while she was unable to exercise any will of her own was no break of residence (*Reg.* v. *Whitby*, L. R. 5 Q. B. 325; 39 L. J. M. C. 97; 22 L. T. (N. S.) 336; 34 J. P. 725).

Residence by a pauper lunatic in another union during a temporary release on trial from an asylum does not constitute such a break in residence as to relieve the union in which such lunatic had acquired a status of irremovability from the charge of maintaining him in the asylum on his return thereto (*Reg.* v. *Bruce*, [1892] 2 Q. B. 136; 40 W. R. 686; 56 J. P. 567). And if a person who has acquired a status of irremovability in a union becomes insane while temporarily residing in another union and is sent from the latter union to an asylum, he nevertheless is chargeable to the union in which he had acquired a status of irremovability (*Leeds Guardians* v. *Wakefield Union*, 7 E. & B. 258; 26 L. J. M. C. 37; 28 L. T. 265; 3 Jur. (N.S.) 292; 21 J. P. 582; *Reg.* v. *Bruce*, *supra*).

The chargeability of lunatics who are exempt from removal to the country of their birth, such as Scotch, Irish, and Channel Islands poor and foreigners, as provided in this section, is in accordance with the decision of the Queen's Bench in *Reg.* v. *Arnold*, 18 Q. B. 553; 21 L. J. M. C. 180; 19 L. T. 255; 17 Jur. 300, upon sect. 5 of the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103).

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When guardians properly make payments without an order in respect of expenses incurred about a lunatic, such payments are Sect. 295. Note.

Sect. 295. same without an order, and may charge the same to such account as they could have done if an order had been made.

The liability of relations of pauper not to be affected.

CCXCVI. The liability of any relation or person to maintain any lunatic shall not be taken away or affected, where such lunatic is sent to or confined in any institution for lunatics, by any provision herein contained concerning the maintenance of such lunatic.

Expenses of removal, discharge, and burial.

CCXCVII. The necessary expenses attending the removal, discharge, or burial of a pauper lunatic in any institution for lunatics, shall be borne by the union to which the lunatic is chargeable, or the local authority liable for his maintenance, and shall be paid by the guardians of the union or by the treasurer of the local authority.

Provisions of Act as to expenses to extend to pauper lunatics

CCXCVIII. The provisions of this Act for the payment of expenses in relation to pauper lunatics shall be applicable with respect to persons confined as pauper lunatics sent to any institution for lunatics under any other Act authorizing their

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Sect. 295. Note.

recoverable by the guardians from the lunatic himself by action, as for necessaries at common law independently of any enactment in the Lunacy Acts (*West Ham* v. *Pearson*, 62 L. T. 638; 54 J. P. 645). Where, however, payments are made by mistake, without an order, by guardians upon whom no order could properly be made, such payments cannot be recovered by the guardians either from the lunatic or from the guardians upon whom an order might have been made (*Ipswich Union* v. *Macclesfield Union*, 63 L. T. 526; 39 W. R. 221; 55 J. P. 134).

Sect. 296. Note.

For the liability to maintain destitute relations generally, see Archbold's Poor Law, 15th ed., pp. 255 *et seq.*

By the Poor Law Amendment Act, 1850 (13 & 14 Vict. c. 101), s. 5, amended by the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 20, special provisions are enacted for enforcing the liability of a husband to maintain a lunatic wife; and such provisions are applicable, notwithstanding that the wife has obtained a protection order under the Matrimonial Causes Act, 1857 (20 & 21 Vict. c. 85), s. 20 (*Oxford Guardians* v. *Barton*, 39 J. P. 725).

Sect. 297. Note.

As to removal of pauper lunatics in an institution for lunatics, see sects. 59, 61, 64, 70, *supra;* as to discharge, see sects. 73—80, *supra;* as to burial, see sects. 258, 259, *supra*.

Sect. 298. Note.

Persons may be sent as pauper lunatics to institutions for lunatics under other Acts, as follows: Soldiers, under the Army Act, 1881 (44 & 45 Vict. c. 58), s. 91, as amended by the Army (Annual) Act, 1891 (54 & 55 Vict. c. 5), s. 6; seamen in the navy, under the Naval Enlistment Act, 1884 (47 & 48 Vict. c. 46), s. 3;

reception therein as pauper lunatics, and (save as herein otherwise provided concerning any lunatic who shall appear to have any real or personal property applicable to his maintenance) with respect to all other lunatics sent to any institution for lunatics under any order of a justice or justices made before the commencement of this Act, or under a summary reception order made by a justice under this Act, or under an order made by two or more commissioners before or after the commencement of this Act, as if such last-mentioned lunatics were at the time of being so sent actually chargeable to the union from which they are sent.

Sect. 298. sent to asylums under any other Act.

*Application of Lunatic's Property.*

CCXCIX.—(1) If it appears to any justice that a lunatic, chargeable to any union, or local authority, has any real or personal property more than sufficient to maintain his family,

Power to recover expenses against lunatic's estate.

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criminal lunatics about to be discharged, under the Criminal Lunatics Act, 1884 (47 & 48 Vict. c. 74), s. 7.

Sect. 298. Note.

By the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 24, the provisions of this Act for the payment of expenses in relation to pauper lunatics are made applicable with respect to lunatics in institutions for lunatics who become paupers.

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In addition to the powers given them by this section the guardians have the rights conferred upon them by the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), s. 16, and by the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 23, as amended by the Poor Law Amendment Act, 1879 (42 & 43 Vict. c. 12), s. 1, for the recovery of expenses from the property of pauper lunatics.

Sect. 299. Note. Sub-s. (1).

This section either recognizes or creates a debt on the part of the lunatic in respect of past expenses which is a liability upon which an action may be brought, although no order has been made by a justice to seize or receive the property of the lunatic, one result of which is that the guardians are in such a case entitled to recover only six years' arrears in respect of the sums paid by them for maintenance and incidental expenses (*Re Newbegin, Eggleton* v. *Newbegin*, 36 Ch. D. 477; 56 L. J. Ch. 907; 57 L. T. 390; 36 W. R. 69; followed in *Re Watson, Stamford Union* v. *Bartlett*, [1899] 1 Ch. 72).

An action may after the death of a pauper lunatic be brought by the guardians against his personal representatives for expenses of his maintenance in an asylum, although no steps to recover payment of such expenses have been taken by the guardians in the lunatic's lifetime (*Re Webster, Derby Union* v. *Sharratt*, 27 Ch. D. 710; 54 L. J. Ch. 276; 51 L. T. 319).

But a claim by guardians for past maintenance of a pauper lunatic which the guardians have not enforced during the lifetime of the lunatic is merely a debt due from the lunatic's estate, payable after his death by his legal personal representative in the due course of administration; and where there was a fund in court belonging to a pauper lunatic and his personal representative

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if any, such justice may by order direct a relieving officer of the union, or the treasurer or some other officer of the local authority, to seize so much of any money, and to seize and sell so much of any other personal property of the lunatic, and to receive so much of the rents of any land of the lunatic as the justice may think sufficient to pay the expenses of maintenance and incidental expenses respectively incurred or to be incurred in relation to the lunatic.

(2) If any trustee, or the bank, or any other society or person having possession of any property of a lunatic, shall pay

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Note.

Sub-s. (1).

petitioned for the payment to him of the fund, and the guardians appeared and claimed payment to them, out of the fund, of so much as would repay them the expenses of maintenance of the pauper lunatic, the court refused the prayer of the guardians, and ordered the payment of the whole fund to the personal representative to be dealt with by him in the ordinary way (*Re Marman's Trusts*, 8 Ch. D. 256; 38 L. T. (N. S.) 797; 26 W. R. 621).

A justice acting under this section is not acting as a court of summary jurisdiction, and consequently has no power to state a special case under the S. J. Act, 1879 (42 & 43 Vict. c. 49), s. 33 (*In re Bethell*, [1899] W. N. 47).

Sub-s. (2).

It was held by Chitty, J., that an order to seize, made under the corresponding sect. 104 of 16 & 17 Vict. c. 94, did not confer on the relieving officer or treasurer of the local authority the right to seize property held in trust for the lunatic, but merely to seize such property as the lunatic was absolutely entitled to (*Re Newbegin, Eggleton* v. *Newbegin*, 36 Ch. D. 477; 56 L. J. Ch. 907; 57 L. T. 390; 36 W. R. 69); but North, J., has decided that a justice's order under sub-sect (1) of this section is applicable to property held in trust for the lunatic, which may, therefore, be seized under such order; and that sub-sect. (2) of this section enables a trustee, &c., to pay the officer without in any way relieving him from the operation of sub-sect. (1) (*Winkle* v. *Bailey*, [1897] 1 Ch. 123; 66 L. J. Ch. 181; 75 L. T. 577; 61 J. P. 135).

Where trustees were in doubt whether an order of justices was applicable to a capital sum held by them, they paid the same into court under the Trustees Relief Act, and allowed the guardians to present a petition for the payment out to them of the amount mentioned in the order of justices, and the court in the exercise of its discretion allowed the amount to be paid out to the guardians without the next of kin of the lunatic being served (*Re Upfull's Trusts*, 3 Mac. & G. 281; 21 L. J. Ch. 119; *Re Buckley's Trust*, Johns. 700; *Re Drewery's Trust*, 2 W. R. 436). In such a case, however, the court has a discretion whether it will make such an order or leave the guardians to their remedy by execution (*Re Buckley's Trust*, Johns., p. 701); and on a petition presented by a lunatic through her next friend, praying that funds in court belonging to the lunatic might in part be paid out to the guardians of the city of London Union for the expenses of her past maintenance which were claimed by the guardians, the court refused that part of the prayer (*Re Collman's Trusts*, 2 W. R. 587).

Where a receiver in lunacy had been appointed, an injunction

or deliver to a relieving officer of a union, or to the treasurer or other officer in charge of the local authority to which respectively a lunatic is chargeable, any money or other property of the lunatic, to repay the charges in this section mentioned, whether pursuant to an order under this section, or without an order, the receipt of such relieving officer, treasurer, or officer shall be a good discharge. Sect. 299.

CCC. An order may be made by a judge of county courts upon an application by the guardians of any union for payment of the expenses incurred by them under this Act in relation to a lunatic, and such order may be enforced against any property of the lunatic in the same way as a judgment of the county court. Order by county court judge.

*Appeals.*

CCCI.—(1) Any person aggrieved by the refusal of an order by any justice or justices as to any matter within the jurisdiction of a justice or justices under this part of this Act, may appeal to a court of quarter sessions upon giving to the justice or justices against whom the appeal is made fourteen clear days' notice of appeal. Persons aggrieved by refusal of an order may appeal to the sessions.

(2) The determination of the court upon the appeal shall be final.

CCCII. The guardians of any union, and the clerk of a local authority, obtaining any order under this Act adjudging the settlement of any lunatic to be in any union, shall, within a Party obtaining order of adjudication

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was granted to restrain the guardians from levying a distress against trustees of the fund to enforce an order of justices for payment of the fund to the guardians (*Winkle* v. *Bailey*, [1897] 1 Ch. 123; 66 L. J. Ch. 181; 75 L. T. 577; 61 J. P. 135). Sect. 299. Note. Sub-s. (2).

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The application must be made by petition (County Court Rules, Ord. XLIIB.). As to the execution of county court judgments, see County Court Act, 1888 (51 & 52 Vict. c. 43), ss. 146—163, and County Court Rules, Ord. XXV. Sect. 300. Note.

For the remedy of the guardians to recoup themselves the expenses of maintenance of a lunatic by obtaining administration to his goods, see sect. 132, *supra*.

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See sect. 289, *supra*, as to orders of adjudication of settlement. Sect. 302.

The statement mentioned in this section may be amended at the hearing of the appeal if the court thinks fit (sect. 307, *infra*). Where the statement omitted to give the description and addresses of all the guardians obtaining the order, it was held under the corresponding repealed sect. 112 of 16 & 17 Vict. c. 97, that the court had power to amend the statement in that particular (*Reg.* v. *Manchester Guardians*, 6 E. & B. 919; 26 L. J. M. C. 1; 28 L. T. 82; 2 Jur. (N. S.) 1205; 20 J. P. 726). Note.

Sect. 302.

to send copy thereof and statement of grounds.

reasonable time after the date of the order, send or deliver, by post or otherwise, to the guardians of the union in which the lunatic is adjudged to be settled, a copy of the order, and also a statement in writing under the hand of the clerk to the guardians, or under the hand of the clerk of the local authority, as the case may be, stating the description and address of the guardians or clerk obtaining the order, and the place of confinement of the lunatic, and setting forth the grounds of the adjudication, including the particulars of any settlement relied upon in support thereof; and on the hearing of any appeal against the order the respondents shall not give evidence of any other grounds in support of the order than those set forth in such statement.

Appeal against order of adjudication.

CCCIII. If the guardians of any union feel aggrieved by any order adjudging the settlement of a lunatic, they may appeal to the quarter sessions for the county or borough on behalf of which the order has been obtained, or in which the union obtaining the order is situate, or, in case such union extends

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Sect. 303.

Note.

The limitation of the right of appeal in this section to the guardians alone, coupled with the repeal of sect. 108 of 16 & 17 Vict. c. 97, deprives of its effect the decision of the court in *Reg.* v. *Medway Union*, L. R. 3 Q. B. 383, by which the overseers of the parish of settlement, as well as the guardians of the union in which such parish was comprised, were held to have a right of appeal.

Orders of adjudication may be obtained either on behalf of a local authority (as defined by sect. 240, *supra*), to whom a pauper lunatic has been adjudged chargeable (sect. 290 (4), *supra*), or by the guardians of the union from which the lunatic was sent to the asylum, and upon whom an order for maintenance has been made (sects. 286—289, *supra*).

The appeal lies to the quarter sessions for the county (1) when the order is obtained on behalf of the county council; (2) when the order is obtained by guardians of a union which is wholly within the county, but is not wholly within a borough in that county having a separate court of quarter sessions (see *Reg.* v. *Kent JJ.*, L. R. 1 Q. B. 385; 35 L. J. M. C. 201; 14 L. T. (N. S.) 331); (3) when such union extends into more counties than one, and the asylum is not situate in a borough having a separate court of quarter sessions. In the last case the appeal lies to the quarter sessions of the county in which the asylum is situate.

The appeal lies to borough quarter sessions (1) when the order is obtained on behalf of a local authority other than a county council or the common council of the city of London; (2) when the order is obtained by guardians of a union wholly within a borough; (3) when the order is obtained by guardians of a union which extends into several counties and the asylum is situate within a borough. In the last case the appeal lies to the quarter sessions of that borough.

It is to be noticed that when the union is in several counties and the appeal lies to the quarter sessions of the county or borough in

into several counties, then to the next quarter sessions for the county or borough in which the institution for lunatics where the lunatic is or has been confined is situate, and such sessions, upon hearing the appeal, shall have full power finally to determine the matter.

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Copy of depositions to be furnished on application.

CCCIV.—(1) The clerk to the justices making an order adjudging the settlement of a lunatic, or the clerk of the peace in the case herein-after provided for, shall keep the depositions upon which the order was made, and shall, within seven days after application by any party authorized to appeal against the order, furnish a copy of the depositions to the applicant.

(2) The person applying for a copy of the depositions shall pay for the same at the rate of twopence for every folio of seventy-two words.

(3) No omission or delay in furnishing a copy of the depositions shall be a ground of appeal against the order.

(4) On the trial of any appeal no such order shall be quashed or set aside either wholly or in part on the ground that the depositions do not furnish sufficient evidence to support, or that any matter therein contained or omitted raises an objection to the order or grounds on which the same was made.

(5) If the justices who make any such order have no clerk, they shall send or deliver the depositions to the clerk of the peace of the county or borough to the quarter sessions whereof the appeal lies, and the party obtaining such order shall, in the statement of the grounds of adjudication, state that the justices have no clerk.

No appeal if notice not given within a certain time.

CCCV. No appeal shall be allowed against any such order if notice in writing of the appeal is not sent or delivered by post

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Sect. 303.

Note.

which the asylum is situate, the appeal must be brought to the next quarter sessions of such county or borough; but that in other cases there is no provision, as there was in the repealed statute 16 & 17 Vict. c. 97, s. 108, that the appeal shall be brought to the next sessions.

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Sect. 304.

Note.

Appeals against orders of justices adjudicating the settlement of lunatics are governed by practically the same rules as appeals against removal orders, as to which see Archbold's Poor Law, 15th ed., pp. 477—484 and pp. 693 *et seq.*

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Sect. 305.

Note.

For sending or delivery of statement, see sect. 302, *supra*.

This section must be understood as giving the party twenty-one days, at all events, to appeal, which may be extended, but not lessened, by the latter clause as to the fourteen days. These days should be reckoned exclusive of the first day and inclusive of the last (*Rex* v. *Yorkshire W. R. JJ.*, 4 B. & Ad. 685; *Williams* v. *Burgess*, 12 A. & E. 635; 9 Dowl. 544).

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or otherwise to the party on whose application the order was obtained within twenty-one days after the sending or delivery, as herein-before directed, of a copy of the order, and such statement as herein-before mentioned, unless within the twenty-one days a copy of the depositions has been applied for by the party intending to appeal, in which case a further period of fourteen days after the sending of such copy shall be allowed for giving notice of appeal.

Grounds of appeal to be stated.

CCCVI. In every case where notice of appeal against such order is given the appellant shall, with the notice, or fourteen days at least before the first day of the sessions at which the appeal is to be tried, send, or deliver by post or otherwise to the respondent a statement in writing under his hand, or where the appellants are the guardians of a union, under the hand of the clerk to the guardians, of the grounds of such appeal; and the appellant shall not, on the hearing of any appeal, give evidence of any other grounds of appeal than those set forth in such statement.

As to the sufficiency of statement of grounds of adjudication or appeal.

CCCVII.—(1) Upon the hearing of any appeal against any such order no objection whatever on account of any defect in the form of setting forth any ground of adjudication or appeal in any such statement shall be allowed, and no objection to the reception of legal evidence offered in support of any such ground alleged to be set forth in any such statement shall prevail, unless the court is of opinion that such alleged ground is so imperfectly or incorrectly set forth as to be insufficient to enable the party receiving the same to inquire into the subject of such statement, and to prepare for trial.

(2) In all cases where the court is of opinion that any such objection to such statement or to the reception of evidence ought to prevail, the court may, if it thinks fit, cause any such statement to be forthwith amended by some officer of the court, or otherwise, on such terms as to payment of costs to the other party, or postponing the trial to another day in the same sessions, or to the next subsequent sessions, or both payment of costs and postponement, as to the court appears just.

Power for court to amend order

CCCVIII.—(1) If, upon the trial of any appeal against any such order, or upon the return to a writ of *certiorari*, any

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Sect. 307. Note.

The court has a general power of adjourning the hearing of an appeal until the next sessions, though it is a power that ought to be cautiously and carefully exercised (*Reg.* v. *Cambridge*, 1 E. B. & E. 61; 30 L. J. M. C. 137; 7 Jur. (N. S.) 1073).

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Sect. 308. Note. Sub-s. (1).

The court may not, however, so amend the order as to affect parties who were not before the justices making the order, and are not before the court on the appeal (*Reg.* v. *Liverpool*, 29 L. J. M. C. 137; 2 L. T. (N. S.) 173; 6 Jur. (N. S.) 1028; 24 J. P. 646).

objection is made on account of any omission or mistake in drawing up the order, and it is shown to the satisfaction of the court that sufficient grounds were proved before the justices making the order to authorize the drawing up thereof free from the omission or mistake, the court may, upon such terms as to payment of costs as it thinks fit, amend the order and give judgment as if no omission or mistake had existed.

Sect. 308. on account of omission or mistake.

(2) No objection on account of any omission or mistake in any such order brought up upon a return to a writ of *certiorari* shall be allowed, unless the omission or mistake has been specified in the rule for issuing such writ of *certiorari*.

CCCIX.—(1) Upon every such appeal the court before whom the same is brought may, if it thinks fit, order the party against whom the same is decided to pay to the other such costs and charges as may to the court appear just, and shall certify the amount thereof.

Power of court as to costs.

(2) If either of the parties to the appeal have included in the statement of grounds of adjudication or of appeal sent to the opposite party any grounds in support of the order or of appeal which, in the opinion of the court determining the appeal, are frivolous and vexatious, such party shall be liable at the discretion of the court, to pay the whole or any part of the costs incurred by the other party in disputing any such grounds.

CCCX. The decision of the court upon the hearing of any appeal against any such order, as well upon the sufficiency and effect of the statement of the grounds in support of the order and appeal, and of the copy or duplicate of the order sent to the appellant, as upon the amending or refusing to amend the order as aforesaid, or the statement of grounds, shall be final, and shall not be liable to be reviewed in any court by means of a writ of *certiorari* or *mandamus* or otherwise.

Decision upon appeal to be final.

CCCXI.—(1) In any case in which an order has been made as aforesaid, and a copy thereof sent as herein required, the

Abandonment of orders.

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This sub-section is in accordance with the general rule upon *certiorari* as enacted in the Quarter Sessions Act, 1849 (12 & 13 Vict. c. 45), s. 7.

Sect. 308. Note. Sub-s. (2).

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The jurisdiction to grant costs of appeal is in the court alone which heard and determined the appeal, and, therefore, an order as to costs made at a subsequent sessions is invalid (*Reg.* v. *Staffordshire JJ.*, 26 L. J. M. C. 179; 3 Jur. (N. S.) 1148; 22 J. P. 209).

Sect. 309. Note.

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The determination of quarter sessions is final upon appeals against refusals of orders under sect. 301, *ante*, and upon appeals of guardians against orders of adjudication under sect. 303, *supra*.

Sect. 310. Note.

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If notice of abandonment is given, the sessions have no jurisdiction to proceed with the appeal although it has been respited on terms from a previous sessions, and any order they may make after

Sect. 311. Note. Sub-s. (1).

Sect. 311.

party who has obtained the order, whether any notice of appeal against the order has been given or not, and whether any appeal has been entered or not, may abandon the order, by notice in writing under the hand of such party, or, where the order has been obtained by the guardians of a union, under the hand of the clerk to the guardians, to be sent by post or delivered to the appellant or the party entitled to appeal, and thereupon the order and all proceedings consequent thereon shall be void, and shall not be given in evidence, in case any other order for the same purposes is obtained.

(2) In all cases of such abandonment the party abandoning shall pay to the appellant or the party entitled to appeal the costs which he has incurred by reason of the order and of all subsequent proceedings thereon.

(3) The proper officer of the court before whom the appeal (if it had not been abandoned) might have been brought shall, upon application, tax and ascertain the costs, at any time, whether the court is sitting or not, upon production to him of the notice of abandonment, and upon proof to him that such reasonable notice of taxation, together with a copy of the bill of costs, has been given to the guardians, or clerk abandoning the order, as the distance between the parties shall in his judgment require; and thereupon the sum allowed for costs, including the usual costs of taxation, which such officer is hereby empowered to charge and receive, shall be indorsed upon the said notice of abandonment, and the said notice so indorsed shall be filed among the records of the said court.

Guardians and officers interested to have access to the lunatic.

CCCXII. In every case of an inquiry, or appeal as to the union in which a pauper lunatic is settled, the guardians, clerks of the guardians, and relieving officers of every union interested in the inquiry or appeal, and every person duly authorized by them respectively, and the clerk of the local authority interested in the inquiry or appeal, and every person duly authorized by him, shall at all reasonable times be allowed free access, in the presence of the medical attendant, to the lunatic to examine him as to the premises.

Sect. 31 of 42 & 43 Vict. c. 49, not to apply.

CCCXIII. The provisions of section thirty-one of the Summary Jurisdiction Act, 1879, shall not apply to appeals under this part of this Act.

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Note.

Sub-s. (1).

such notice of abandonment is null and void (*Killymaenllwydd* v. *St. Michael's, Pembroke*, 21 L. J. M. C. 79; 16 J. P. 150).

Sub-s. (2).

The time limited by the Poor Law (Payment of Debts) Act, 1859 (22 & 23 Vict. c. 49), for the payment of the costs of an abandoned order will run from the taxation of the costs, not from the notice of abandonment (*Midland Railway Co.* v. *Edmonton Guardians*, [1895] A. C. 485; 64 L. J. Q. B. 710; 72 L. T. 811; 60 J. P. 68; *West Ham Union* v. *St. Matthew's, Bethnal Green*, [1896] A. C. 477; 65 L. J. M. C. 201; 75 L. T. 286; 60 J. P. 740).

*Recovery of Expenses.* Sect. 314.

Money ordered to be paid may be recovered by distress or action.

CCCXIV.—(1) If the treasurer of any local authority, upon whom any order of justices for the payment of money under the provisions of this Act is made, refuses or neglects for twenty days after due notice of such order to pay the money, the money, together with the expenses of recovering the same, shall be recovered by distress and sale of the goods of the treasurer so refusing or neglecting, by warrant under the hands of any two justices authorized to make the order for payment of the money, or by an action at law, or by any other proceeding in a court of competent jurisdiction, against the treasurer.

(2) If the guardians upon whom any such order is made refuse or neglect for such time as aforesaid to pay the money, the same, together with the expenses of recovering the same may be recovered by an action at law or by any other proceeding in any such court.

(3) In case of any such action or proceeding no objection shall be taken to any default or want of form in any order for reception or maintenance, or in any certificate or adjudication under this Act, if such order or adjudication has not been appealed against, or if appealed against has been affirmed.

## PART XI.

### PENALTIES, MISDEMEANOURS, AND PROCEEDINGS.

Lunatics not to be detained except in accordance with Act.

CCCXV.—(1) Every person who, except under the provisions of this Act, receives or detains a lunatic, or alleged lunatic, in an institution for lunatics, or for payment takes charge of, receives to board or lodge, or detains a lunatic or alleged lunatic in an unlicensed house, shall be guilty of a misdemeanour, and in the latter case shall also be liable to a penalty not exceeding fifty pounds.

(2) Except under the provisions of this Act, it shall not be

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Sect. 314. Note. Sub-s. (2).

The enforcement of claims under the order of a justice against guardians is subject to the limitation of time prescribed in the Poor Law (Payment of Debts) Act, 1859 (22 & 23 Vict. c. 49). Each weekly sum becoming payable under the order of a justice for the maintenance of a pauper lunatic is a debt, claim, or demand due within the meaning of that Act from the guardians upon whom the order is made, and must be paid, or proceedings must be commenced to enforce payment thereof within the time limited by that Act, or the recovery will be barred (*Reg.* v. *Stepney Union*, L. R. 9 Q. B. 383; 43 L. J. M. C. 145; 30 L. T. (N. S.) 808; 38 J. P. 549).

Sub-s. (3).

But the judge is bound to take judicial notice of a previous order of adjudication which was still in force at the time when the justices (acting in ignorance of such order or under a misapprehension) made the order directing payment of the expenses, to recover which the action is brought (*Suffolk County Asylum* v. *Stow Union*, 76 L. T. 494; 45 W. R. 620; 61 J. P. 328; and see note to sect. 287, *supra*.)

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lawful for any person to receive or detain two or more lunatics in any house unless the house is an institution for lunatics or workhouse.

(3) Any person who receives or detains two or more lunatics in any house, except as aforesaid, shall be guilty of a misdemeanour.

Neglect to send notices on admission a misdemeanour.

CCCXVI. The manager of any hospital or licensed house, and any person having charge of a single patient who omits to send to the commissioners the prescribed documents and information upon the admission of a patient, or to make the prescribed entries, and give the prescribed notices upon the removal, discharge, or death of a patient, shall be guilty of a misdemeanour, and in the case of a single patient shall also be liable to a penalty not exceeding fifty pounds.

Misstatements.

CCCXVII.—(1) Any person who makes a wilful misstatement of any material fact in any petition, statement of particulars, or reception order under this Act, shall be guilty of a misdemeanour.

(2) Any person who makes a wilful misstatement of any material fact in any medical or other certificate, or in any statement or report of bodily or mental condition under this Act, shall be guilty of a misdemeanour.

(3) A prosecution for a misdemeanour under this section shall not take place except by order of the commissioners, or by the direction of the Attorney-General or the Director of Public Prosecutions.

False entries.

CCCXVIII. Any person who in any book, statement, or return, knowingly makes any false entry as to any matter as to which he is by this Act or any rules made under this Act required to make any entry, shall be guilty of a misdemeanour.

Notice to coroner of death.

CCCIX. If the manager of an institution for lunatics, or the person having charge of a single patient, omits to send to the coroner notice of the death of a lunatic within the prescribed time, he shall be guilty of a misdemeanour.

Penalty for non-compliance with the Act and rules.

CCCXX. Any person who makes default in sending to the commissioners or any other person any return, report, extract, copy, statement, notice, plan, or document, or any information within his knowledge or obtainable by him, when required so to do under this Act or any other Act relating to lunacy, or any rules made under this Act or in complying with the said Acts or rules, shall for each day or part of a day during which the default continues be liable to a penalty not exceeding ten pounds,

Sect. 317.

Note.

For powers, &c., of Director of Public Prosecutions, see Treasury Solicitor Act, 1876 (39 & 40 Vict. c. 18), s. 3, and Prosecution of Offences Act, 1884 (47 & 48 Vict. c. 58), s. 2.

unless a penalty is expressly imposed by this or any other Act for such default: Provided that all or any part of the cumulative penalties may be remitted by the court in any case in which it is made to appear to the satisfaction of the court that the original default or its continuance during any period of time arose from mere accident or oversight, and not from wilful or culpable neglect on the part of the person sued. Sect. 320.

CCCXXI.—(1) Any person who obstructs any commissioner or Chancery or other visitor in the exercise of the powers conferred by this or any other Act, shall for each offence be liable to a penalty not exceeding fifty pounds, and shall also be guilty of a misdemeanour. Obstruction.

(2) Any person who wilfully obstructs any other person authorized under this Act by an order in writing under the hand of the Lord Chancellor or a Secretary of State to visit and examine any lunatic or supposed lunatic, or to inspect or inquire into the state of any institution for lunatics, gaol, or place wherein any lunatic or person represented to be lunatic is confined or alleged to be confined, in the execution of such order, and any person who wilfully obstructs any person authorized under this Act by any order of the commissioners to make any visit and examination or inquiry in the execution of such order, shall (without prejudice to any proceedings, and in addition to any punishment to which such person obstructing the execution of such order would otherwise be subject,) be liable for every such offence to a penalty not exceeding twenty pounds.

CCCXXII. If any manager, officer, nurse, attendant, servant, or other person employed in an institution for lunatics or any person having charge of a lunatic, whether by reason of any contract, or of any tie of relationship, or marriage, or otherwise, ill-treats or wilfully neglects a patient, he shall be guilty of a misdemeanour, and, on conviction on indictment, shall be liable to fine or imprisonment, or to both fine and imprisonment at the discretion of the court, or be liable on summary conviction for every offence to a penalty not exceeding twenty pounds nor less than two pounds. Ill-treatment.

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Sect. 322. Note.

It has been held that the parents of a lunatic who resides with them under their care are persons "having the care or charge" of a lunatic within the meaning of the corresponding sect. 9 of 16 & 17 Vict. c. 96, and may be convicted for ill-treating such lunatic (*Buchanan* v. *Hardy*, 18 Q. B. D. 486; 56 L. J. M. C. 42; 35 W. R. 453; 51 J. P. 47); and also a brother who voluntarily took charge of a lunatic brother (*Reg.* v. *Porter*, Leigh & Cave, C. C. R. 394; 33 L. J. M. C. 126; 10 Jur. (N. S.) 547); but not a husband whose lunatic wife lives with him (*Reg.* v. *Rundle*, 1 Dear. & Pearce, 482; 24 L. J. M. C. 129; 1 Jur. (N. S.) 430; 19 J. P. 293). This last case was, however, disapproved of in *Buchanan* v. *Hardy*, *supra*.

Sect. 323.

Penalties for permitting escape and for rescue.

CCCXXIII. If any manager, officer, or servant of an institution for lunatics wilfully permits, or assists, or connives at the escape or attempted escape of a patient, or secretes a patient, he shall for every offence be liable to a penalty not exceeding twenty pounds nor less than two pounds.

Abuse of female lunatic.

CCCXXIV. If any manager, officer, nurse, attendant, or other person employed in any institution for lunatics (including an asylum for criminal lunatics), or workhouse, or any person having the care or charge of any single patient, or any attendant of any single patient, carnally knows or attempts to have carnal knowledge of any female under care or treatment as a lunatic in the institution, or workhouse, or as a single patient, he shall be guilty of a misdemeanour, and, on conviction on indictment, shall be liable to be imprisoned with or without hard labour for any term not exceeding two years; and no consent or alleged consent of such female thereto shall be any defence to an indictment or prosecution for such offence.

By whom proceedings to be taken.

CCCXXV.—(1) Except as by this Act otherwise provided, proceedings against any person for offences against this Act may be taken—

(*a.*) By the secretary of the commissioners upon their order for any offence;

(*b.*) By the clerk of the visitors of any licensed house for an offence committed within their jurisdiction;

(*c.*) By the clerk of the visiting committee of an asylum for any offence by any person employed therein;

and such proceedings shall not abate by the death or removal of the prosecuting secretary or clerk, but the same may be continued by his successor, and in any such proceedings the prosecuting secretary or clerk shall be competent to be a witness.

(2) Except as by this Act otherwise provided, it shall not be lawful to take such proceedings except by order of the commissioners, or of visitors having jurisdiction in the place where the offence was committed, or with the consent of the Attorney-General or Solicitor-General.

Recovery and application of penalties.

CCCXXVI. All penalties enforceable under this Act shall be recovered summarily according to the provisions of the Summary Jurisdiction Acts, and shall be paid—

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Sect. 326.

Note.

The definition of "the Summary Jurisdiction Acts," so far as it relates to England and Wales, is given in the Interpretation Act, 1889 (52 & 53 Vict. c. 63), as 11 & 12 Vict. c. 43, and 42 & 43 Vict. c. 49, and any Act, past or future, amending those Acts or either of them.

Sect. 326.

*a.* When recovered by the secretary of the commissioners, to such secretary;

*b.* When recovered by the clerk of the visitors of a licensed house, to the clerk of the peace for the county or borough, to be applied in the same way as money received for licences granted by the justices of the county or borough;

*c.* When recovered by a clerk of the visiting committee of an asylum, to the treasurer of the asylum for the purposes thereof;

*d.* In all other cases to the treasurer of the county or borough for which the convicting justices acted.

Appeals.

CCCXXVII. Any person aggrieved by an order of justices under this Act, other than orders adjudicating as to the settlement of a lunatic pauper and providing for his maintenance, may appeal to a court of quarter sessions, subject to the conditions and regulations of the Summary Jurisdiction Acts.

Secretary of State may direct prosecution.

CCCXXVIII. A Secretary of State on the report of the commissioners or visitors of any institution for lunatics may direct the Attorney-General to prosecute on the part of the Crown any person alleged to have committed a misdemeanour under this Act.

Evidence upon prosecution.

CCCXXIX.—(1) Where any person is proceeded against under this Act on a charge of omitting to transmit or send any copy, list, notice, statement, report or other document required to be transmitted or sent by such person, the burden of proof that the same was transmitted or sent within the time required shall lie upon such person; but if he proves by the testimony of one witness upon oath that the copy, list, notice, statement, report or document in respect of which the proceeding is taken was properly addressed and put into the post in due time, or (in case of documents required to be sent to the commissioners or a clerk of the peace or a clerk to guardians) left at the office of the commissioners or of the clerk of the peace or clerk to guardians, such proof shall be a bar to all further proceedings in respect of such charge.

(2) In proceedings under this Act, where a question arises whether a house is or is not a licensed house or registered as a hospital, it shall be presumed not to be so licensed or registered unless the licence or certificate of registration is produced, or sufficient evidence is given that a licence or certificate is in force.

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Sect. 327.

Note.

For these conditions and regulations see S. J. Act, 1879 (42 & 43 Vict. c. 49), s. 31.

Sect. 330.

Protection to persons putting the Act in force.

CCCXXX.—(1) A person who before the passing of this Act has signed or carried out or done any act with a view to sign or carry out an order purporting to be a reception order, or a medical certificate that a person is of unsound mind, and a person who after the passing of this Act presents a petition for any such order, or signs or carries out or does any act with a view to sign or carry out an order purporting to be a reception order, or any report or certificate purporting to be a report or certificate under this Act, or does anything in pursuance of this Act, shall not be liable to any civil or criminal proceedings whether on the ground of want of jurisdiction or on any other ground if such person has acted in good faith and with reasonable care.

(2) If any proceedings are taken against any person for signing or carrying out or doing any act with a view to sign or carry out any such order, report, or certificate, or presenting any such petition as in the preceding sub-section mentioned, or doing anything in pursuance of this Act, such proceedings may, upon summary application to the High Court or a judge thereof, be stayed upon such terms as to costs and otherwise as the court or judge may think fit, if the court or judge is satisfied that there is no reasonable ground for alleging want of good faith or reasonable care.

[Sect. 331. *Actions by persons detained as lunatics:* Repealed by the Public Authorities Protection Act, 1893 (56 & 57 Vict. c. 61), and replaced by sect. 1 of that Act.]

Commissioners and visitors may summon witnesses.

CCCXXXII.—(1) The commissioners, or any two of them, and also the visitors of any licensed house, or any two of them, may, as they see occasion, require, by summons, under the common seal of the commission, if by the commissioners, and if by two only of the commissioners or by two visitors, then under the hands and seals of such two commissioners or two visitors, as the case may be, any person to appear before them to testify on oath touching any matters respecting which such commissioners and visitors respectively are by this Act authorized to inquire (which oath such commissioners or visitors are hereby empowered to administer).

Form 22.

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Sect. 330.

Note.

In an action against guardians and their relieving officer for wrongful detention, under sect. 20 of this Act, of the plaintiff, an alleged lunatic, who was discharged as sane when proceedings for obtaining a reception order were taken, Hawkins, J., directed the jury that there was no case against the guardians, and that if they thought that the relieving officer had honestly satisfied himself that the plaintiff was a lunatic, and should be placed under temporary restraint, he also was entitled to their verdict (*Times*, January 20th and 24th, 1898). As to the interpretation that may be placed upon the words "things done in pursuance of this Act," see *Hall* v. *Semple*, 3 F. & F. 336, decided upon similar words in the repealed Lunacy Act (8 & 9 Vict. c. 100, s. 105).

Sect. 332.

(2) Every person who does not appear pursuant to the summons, or does not assign some reasonable excuse for not appearing, or who appears and refuses to be sworn or examined, shall, on being convicted thereof before a court of summary jurisdiction for every such neglect or refusal be liable to a penalty not exceeding fifty pounds.

(3) Any two or more commissioners or visitors may, if they think fit, examine on oath any person appearing before them as a witness, without having been summoned.

(4) Any commissioners or visitors who summon a person to appear and give evidence, may direct the secretary of the commissioners or the clerk of such visitors, as the case may be, to pay to such person all reasonable expenses of his appearance and attendance, the same to be considered as expenses incurred in the execution of this Act, and to be taken into account and paid accordingly.

## PART XII.

### MISCELLANEOUS PROVISIONS, DEFINITIONS, REPEAL.

Indemnity to bank and others.

CCCXXXIII. This Act, and every order purporting to be made under this Act, shall be a full indemnity and discharge to the bank and every other company and society and their respective officers and servants, and all other persons respectively, for all acts and things done or permitted to be done pursuant thereto, or pursuant to the rules under this Act, so far as relates to any property in which a lunatic is interested either in his own right, or as trustee or mortgagee, and it shall not be necessary to inquire into the propriety of any order purporting to be made under this Act relating to any such property or the jurisdiction to make the same.

Meaning of word commission in other Acts extended.

CCCXXXIV. Where in any Act of Parliament, order or rule of court, or instrument, reference is made to a commission of lunacy, or the inquisition thereon, the general commission and the inquisition, or certificate operating as an inquisition, and the issue and verdict thereon respectively in this Act mentioned, shall be deemed to be included in the reference.

Pension of lunatic payable by public department.

CCCXXXV. Where any sum in respect of pay, pension, superannuation, or other allowance, or annuity under the control or management of any public department, is payable to any person, in respect either of service as a civil servant or of military or naval service or of provision for a widow or child of a person employed in civil, military, or naval service, and the person to whom the sum is payable is certified by a justice or minister of religion, and by a medical practitioner, to be unable by reason of mental disability to manage his or her affairs, the public department may pay so much of the said sum as the department may think fit to the institution or

Forms 16, 17.

Sect. 335.

person having the care of the disabled person, and may pay the surplus, if any, or such part thereof, as the department may think fit, for or towards the maintenance and benefit of the wife or husband and relatives of the disabled person, and the department shall be discharged from all liability in respect of any sums so paid.

Reception orders before Act.

CCCXXXVI. In the case of orders made before the commencement of this Act for the reception of private patients, the person who signed the reception order shall have all the powers and be subject to the obligations by this Act conferred or imposed upon the petitioner for a reception order, and the provisions of this Act relating to persons upon whose petition a reception order was made shall apply in the case of a person who before the commencement of this Act has signed an order for the reception of a private patient, as if the order had been made after the commencement of this Act upon a petition presented by him.

Power to amalgamate the lunacy departments.

CCCXXXVII.—(1) The Lord Chancellor may, if it seems expedient to him so to do, by order under his hand, amalgamate the office of the masters and their staff, and the office of the Chancery visitors and their staff, and may amalgamate such offices, or either of them, with the office of the commissioners, and may give such directions as he may think fit for the reconstitution of the commissioners, and for the exercise and performance of the powers and duties of the commissioners, and of the officers and staff amalgamated respectively under any order under this section.

(2) In the event of any such amalgamation, the Lord Chancellor may, with the concurrence of the Treasury, fix the qualifications and salaries of the members of the amalgamated office and of the staff attached thereto, and may, with such concurrence, increase or diminish the number of such members and staff.

(3) An order under this section shall not be made so as to prejudice the rights of the masters, visitors, and commissioners respectively holding office at the passing of this Act.

(4) The Lord Chancellor may by order direct that such proportion as he may consider reasonable of the expenses incurred in carrying any such amalgamation into effect, including the cost of providing office accommodation, shall be paid out of the percentage charged on the incomes of lunatics.

Power to make rules.

CCCXXXVIII.—(1) It shall be lawful for the commissioners, with the approval of the Lord Chancellor, by rules, to prescribe the books to be kept in institutions for lunatics and houses for single patients, and the entries to be made therein, and the returns, reports, extracts, copies, statements, notices, plans, documents, and information to be sent to the commissioners or

any authority or person, and the persons by whom, the times within which, and the manner in which, such entries, returns, reports, extracts, copies, statements, notices, plans, documents, and information are to be made and sent; and also by rules to prescribe forms for the purposes aforesaid in addition to or in substitution for any forms now in use. Sect. 338.

(2) Subject to the preceding sub-section, the Lord Chancellor may make rules . . . for carrying this or any other Act relating to lunacy into effect, and also for regulating costs in relation thereto.

(3) Where by any Act already passed or hereafter to be passed any application in lunacy is directed or authorized to be made by petition, or in any other specified manner, the Lord Chancellor may by rule direct in what manner the application is to be made.

(4) The Lord Chancellor and a Secretary of State respectively may by rules provide for preventing interference or delay in the exercise of the ordinary jurisdiction of the judges of county courts and magistrates respectively by the transfer of petitions and notices or otherwise as such rules may direct.

(5) Subject to any rules made under this section, the existing rules shall, so far as applicable, continue in force.

(6) All rules made under the provisions of this section shall be laid before Parliament within three weeks after they are made if Parliament is then sitting, and, if Parliament is not then sitting, within three weeks after the beginning of the then next session of Parliament, and shall be judicially noticed, and shall have effect as if enacted by this Act.

(7) A rule under the provisions of this section shall not come into operation until the expiration of one month after the same has been made and issued.

CCCXXXIX. Subject to rules made under this Act, the forms in the second schedule may be used, wherever applicable, with such modifications as circumstances may require, and if used, shall be deemed to be sufficient. Forms.

CCCXL.—(1) Save as in this Act otherwise expressly provided this Act shall not extend to criminal lunatics. Savings as to criminal lunatics, &c.

Sect. 338.

Note.

Sub-s. (2).

Sub-s. (4).

Amended by the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 27 (2).

Extended by the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 24 (2).

Sect. 340.

Note.

Sub-s. (1).

For express provisions as to criminal lunatics, see sects. 116 (1) (*f*), and the general provisions as to penalties and punishments in sects. 320, 321, 324, *supra*.

The enactments regulating criminal lunatics are now the Criminal Lunatics Act, 1838 (1 & 2 Vict. c. 14), and the Criminal Lunatics Act, 1884 (47 & 48 Vict. c. 64).

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(2) This Act shall not affect the provisions of the Idiots Act, 1886.

49 & 50 Vict. c. 25.

Definitions.

CCCXLI. In this Act, if not inconsistent with the context—

"Asylum" means an asylum for lunatics provided by a county or borough, or by a union of counties or boroughs:

"The bank" means the governor and company of the Bank of England:

"Clerk," in relation to a local authority, means, where the local authority is a county council, the clerk of the council, and where the local authority is a borough council, the town clerk of the borough:

"Commissioners" means the Commissioners in Lunacy:

"Contingent right," as applied to lands, includes a contingent and executory interest, a possibility coupled with an interest, whether the object of the gift or limitation of such interest or possibility be or be not ascertained, also a right of entry, whether immediate or future, and whether vested or contingent:

"Convey" and "conveyance" include the performance of all formalities required to the validity of conveyances by married women and tenants in tail under the "Act for the Abolition of Fines and Recoveries, and for the substitution of more simple modes of assurance," and also surrenders and other acts which a tenant of copyhold lands can perform preparatory to or in aid of a complete assurance of such copyhold lands:

3 & 4 Will. 4, c. 74.

"County," for the purpose of the powers exerciseable by justices of a county, does not include a county of a city or county of a town (except the city of London), but includes any county, riding, division, part or liberty of a county having a separate court of quarter sessions:

51 & 52 Vict. c. 41.

"County borough" has the same meaning as in the Local Government Act, 1888:

47 & 48 Vict. c. 64.

"Criminal lunatic" has the same meaning as in the Criminal Lunatics Act, 1884:

"District asylum" means an asylum provided by two or more counties in union, or by any county or counties in union with any borough or boroughs:

"Dividends" includes interest and other annual produce:

4 & 5 Will. 4, c. 76.

"Guardians" means guardians appointed under the Poor Law Amendment Act, 1834, and the Acts amending the same, and includes guardians or other body of persons performing under any local Act the like functions as guardians under the Poor Law Amendment Act, 1834:

"Hospital" means any hospital or part of a hospital or other house or institution (not being an asylum) wherein lunatics

Sect. 341.

are received and supported wholly or partly by voluntary contributions, or by any charitable bequest or gift, or by applying the excess of payments of some patients for or towards the support, provision, or benefit of other patients:

"Inquisition" includes an order, certificate, or verdict operating as an inquisition:

"Institution for lunatics" means an asylum, hospital, or licensed house:

"Justice" means a justice of the peace:

"Land" includes an undivided share of land:

"Lease" includes underlease:

"Lunatic" means an idiot or person of unsound mind:

[Imbecility arising from causes such as intemperance, or the natural decay of the faculties through old age, constitutes "unsound mind" within this definition (*Reg.* v. *Shaw*, L. R. 1 C. C. R. 145; 37 L. J. M. C. 112; 18 L. T. (N. S.) 583; 16 W. R. 913).]

"Magistrate" means a stipendiary magistrate and any magistrate appointed to act at any of the police courts of the metropolis:

"Manager" in relation to an institution for lunatics means the superintendent of an asylum, the resident medical officer or superintendent of a hospital, and the resident licensee of a licensed house:

"Masters" means the masters in lunacy:

"Medical officer" means, in the case of an asylum, the medical superintendent, or if the superintendent is not a medical practitioner the resident medical officer of the asylum, in the case of a hospital the superintendent, and in the case of a licensed house the resident medical practitioner, or if none the medical practitioner who visits the house as the medical attendant thereof:

"Medical practitioner" means a medical practitioner duly registered under the Medical Act, 1858, and the Acts amending the same, and the Medical Act, 1886: 21 & 22 Vict. c. 90.

"Mortgage" includes every estate, interest, or property in real or personal estate, which is a security for money or money's worth: 49 & 50 Vict. s. 48.

"Next of kin" includes heir-at-law, and the persons entitled under the statutes for the distribution of the estates of intestates:

"Pauper" means a person wholly or partly chargeable to a union, county, or borough:

"Paymaster-General" includes the Assistant Paymaster-General for Supreme Court business:

"Prescribed" means prescribed by this Act or by any rules under this Act:

Sect. 341.

"Private patient" means a patient who is not a pauper:

"Property" includes real and personal property, whether in possession, reversion, remainder, contingency, or expectancy, and any estate or interest, and any undivided share therein:

"Public department" means the Treasury, the Admiralty, and a Secretary of State, and any other public department of the Government:

"Quarter sessions" includes general sessions:

"Quarter sessions borough" means a borough having a separate court of quarter sessions:

"Reception order" means an order or authority made or given before or after the commencement of this Act for the reception of a lunatic, whether a pauper or not, in an institution for lunatics or as a single patient, and includes an urgency order:

"Relative" means a lineal ancestor or lineal descendant, or a lineal descendant of an ancestor not more remote than great-grandfather or great-grandmother:

"Stock" includes any fund, annuity, or security transferable in books kept by any company or society, or by instrument of transfer alone, or by instrument of transfer, accompanied by other formalities, and any share or interest therein, and also shares in ships registered under the Merchant Shipping Act, 1854:

17 & 18 Vict. c. 104.

[The Merchant Shipping Act, 1854, is now repealed and replaced by the Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60).]

[For judicial interpretation of the word "stock," see *Re Angelo*, 5 De G. & S. 271, and *Re Ives*, 3 De G. J. & S. 453; 32 L. J. Ch. 673.]

"Transfer" includes assignment, payment, and other disposition, and the execution, and performance, of every assurance and act to complete a transfer:

"Trust" and "trustee" include implied and constructive trusts, and cases where the trustee has some beneficial interest, and also the duties incident to the office of personal representative of a deceased person, but not the duties incident to an estate conveyed by way of mortgage:

"Union" means any parish or union of parishes for which there is a separate board of guardians:

"Visiting committee" means a committee of visitors of an asylum appointed under this Act:

"Workhouse" includes an asylum provided for reception and relief of the insane under the Metropolitan Poor Act, 1867, and the managers of every such asylum shall exercise the powers and perform the duties by this Act conferred and imposed upon the guardians of the union to which a workhouse belongs.

30 Vict. c. 6.

CCCXLII. The Acts mentioned in the fifth schedule are hereby repealed to the extent set forth in the third column of the same schedule. Sect. 342. Repeal.

Provided that this repeal shall not affect any jurisdiction or practice established, confirmed, or transferred, or salary or compensation or superannuation secured, by or under any enactment repealed by this Act.

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THE FIRST SCHEDULE.

*Declaration to be made by a Master.* Section 111.

I, , declare that I will faithfully, impartially, and honestly, according to the best of my skill and knowledge, execute the powers and trusts committed to me as one of the masters in lunacy, and that without favour or affection, prejudice or malice.

*Declaration to be made by a Commissioner.* Section 151.

I, , declare that I will discreetly, impartially, and faithfully execute all the powers and trusts committed to me as one of the Commissioners in Lunacy, and that I will keep secret all such matters as come to my knowledge in the execution of my office (except when required to divulge the same by legal authority, or so far as I feel myself called upon to do so for the better execution of my duties).

*Declaration to be made by the Secretary and Clerks of the Commissioners.* Section 157.

I, , declare that I will faithfully execute all the trusts and duties committed to me as secretary of the Commissioners in Lunacy [*or*, as clerk of the Commissioners in Lunacy], and that I will keep secret all such matters as come to my knowledge in the execution of my office (except when required to divulge the same by legal authority).

*Declaration to be made by Assistants to the Clerk of the Visitors.* Section 179.

I, , declare that I will faithfully keep secret all matters and things which come to my knowledge in consequence of my employment as assistant to the clerk of the visitors of licensed houses appointed for the county [*or* borough] of unless required to divulge the same by legal authority.

Schedule II.

Section 339.

## THE SECOND SCHEDULE.

### FORM 1.

Sections 4, 5.

*Petition for an Order for Reception of a Private Patient.*

In the matter of *A. B.* a person alleged to be of unsound mind.

To a justice of the peace for [*or* To his honour the judge of the county court of *or* To stipendiary magistrate for ].

The petition of *C. D.* of [1] in the county of .

1. I am [2] years of age.

2. I desire to obtain an order for the reception of *A. B.* as a lunatic [3] in the asylum [*or* hospital *or* house *as the case may be*] of situate at [4]

3. I last saw the said *A. B.* at on the [5] day of .

4. I am the [6] of the said *A. B.* [*or if the petitioner is not connected with or related to the patient state as follows :*]

I am not related to or connected with the said *A. B.* The reasons why this petition is not presented by a relation or connection are as follows: [*State them.*]

The circumstances under which this petition is presented by me are as follows: [*State them.*]

5. I am not related or connected with either of the persons signing the certificates which accompany this petition as (*where the petitioner is a man*) husband, father, father-in-law, son, son-in-law, brother, brother-in-law, partner, or assistant, (*or where the petitioner is a woman*) wife, mother, mother-in-law, daughter, daughter-in-law, sister, sister-in-law, partner, or assistant.

6. I undertake to visit the said *A. B.* personally or by some one specially appointed by me at least once in every six months while under care and treatment under the order to be made on this petition.

7. A statement of particulars relating to the said *A. B.* accompanies this petition.

*If it is the fact add:*

8. The said *A. B.* has been received in the asylum [*or*

[1] Full postal address and rank, profession, or occupation.

[2] At least twenty-one.

[3] Or an idiot or person of unsound mind.

[4] Insert a full description of the name and locality of the asylum, hospital, or licensed house, or the full name, address, and description of the person who is to take charge of the patient as a single patient.

[5] Some day within fourteen days before the date of the presentation of the petition.

[6] Here state the connection or relationship with the patient.

Form 1.

Note.

Amended by the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 23.

hospital *or* house *as the case may be*] under an urgency order dated the

The petitioner therefore prays that an order may be made in accordance with the foregoing statement.

(Signed)

full Christian and surname.

[Date of presentation of the petition.]

FORM 2.

Sections 4, 5, 11.

*Statement of Particulars.*

Statement of particulars referred to in the annexed petition [*or* in the above *or* annexed order].

The following is a statement of particulars relating to the said *A. B.*[1]:—

Name of patient, with Christian name at length.
Sex and age.
†Married, single, or widowed.
†Rank, profession, or previous occupation (if any).
†Religious persuasion.
Residence at or immediately previous to the date hereof.
†Whether first attack.
Age on first attack.
When and where previously under care and treatment as a lunatic, idiot, or person of unsound mind.
†Duration of existing attack.
Supposed cause.
Whether subject to epilepsy.
Whether suicidal.
Whether dangerous to others, and in what way.
Whether any near relative has been afflicted with insanity.
Names, Christian names, and full postal addresses of one or more relatives of the patient.
Name of the person to whom notice of death to be sent, and full postal address if not already given.
Name and full postal address of the usual medical attendant of the patient.

(Signed)

When the petitioner or person signing an urgency order is not the person who signs the statement, add the following particulars concerning the person who signs the statement.

Name with Christian name at length.
Rank, profession, or occupation (if any).
How related to or otherwise connected with the patient.

[1] If any particulars are not known, the fact is to be so stated. [Where the patient is in the petition or order described as an idiot omit the particulars marked †.]

Schedule II.

FORM 3.

Section 6. *Order for Reception of a Private Patient to be made by a Justice appointed under the Lunacy Act, 1890, Judge of County Courts, or Stipendiary Magistrate.*

I, the undersigned *E. F.*, being a justice for specially appointed under the Lunacy Act, 1890 [*or* the judge of the county court of *or* the stipendiary magistrate for ] upon the petition of *C. D.*, of[1] in the matter of *A. B.* a lunatic,[2] accompanied by the medical certificates of *G. H.* and *I. J.* hereto annexed, and upon the undertaking of the said *C. D.* to visit the said *A. B.* personally or by some one specially appointed by the said *C. D.* once at least in every six months while under care and treatment under this order, hereby authorize you to receive the said *A. B.* as a patient into your asylum.[3] And I declare that I have [*or* have not] personally seen the said *A. B.* before making this order.

Dated

(Signed) *E. F.*

A justice for appointed under the above-mentioned Act, [*or* the judge of the county court of *or* a stipendiary magistrate].

To[4]

[1] Address and description.
[2] Or an idiot or person of unsound mind.
[3] Or hospital or house or as a single patient.
[4] To be addressed to the medical superintendent of the asylum or hospital, or to the resident licensee of the house in which the patient is to be placed.

FORM 4.

Section 11. *Form of Urgency Order for the Reception of a Private Patient.*

I, the undersigned, being a person twenty-one years of age, hereby authorize you to receive as a patient into your house[1] *A. B.*, as a lunatic,[2] whom I last saw at on the[3] day of 18 . I am not related to or connected with the person signing the certificate which accompanies this order in any of the ways mentioned in the margin.[4] Subjoined [*or*

[1] Or hospital or asylum or as a single patient.
[2] Or an idiot or a person of unsound mind.
[3] Some day within two days before the date of the order.
[4] Husband, wife, father, father-in-law, mother, mother-in-law, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law, partner, or assistant.

annexed] hereto [5] is a statement of particulars relating to the said *A. B.* Schedule II.

(Signed) Name and Christian name at length.
Rank, profession, or occupation (if any).
Full postal address.
How related to or connected with patient.
[If not the husband or wife or a relative of the patient, the person signing to state as briefly as possible: 1. Why the order is not signed by the husband or wife or a relative of the patient. 2. His or her connexion with the patient, and the circumstances under which he or she signs.]

Dated this day of , 18 .

To , superintendent of the asylum [ hospital *or* resident licensee of the house].[6]

[5] *See* Form 2.

[6] Describing the asylum, hospital, or house by situation and name.

FORM 5.

*Certificate as to Personal Interview after Reception.* Section 8.

I certify that it would be prejudicial to *A. B.* to be taken before or visited by a justice, a judge of county courts, or magistrate.

(Signed) *C. D.*,
Medical superintendent of the asylum *or* hospital, *or* resident medical practitioner *or* attendant of the , *or* medical attendant of the said *A. B.*

FORM 6.

*Notice of Right to Personal Interview.* Section 8.

Take notice that you have the right, if you desire it, to be taken before or visited by a justice, judge of county courts, or magistrate. If you desire to exercise such right, you must give me notice thereof by signing the inclosed form on or before the day of

Dated

(Signed) *C. D.*,
Superintendent of the asylum *or* hospital, *or* resident licensee of [*or as the case may be*].

Schedule II.

Section 8.

FORM 7.

*Notice of Desire to have a Personal Interview.*

Dated

[*Address*]

I desire to be taken before or visited by a justice, judge, or magistrate having jurisdiction in the district within which I am detained.

(Signed)

FORM 8.

Sections 4, 11, 16, 23, 24.

*Certificate of Medical Practitioner.*

In the matter of *A. B.* of[1] in the county[2] of [3], an alleged lunatic.

I, the undersigned *C. D.*, do hereby certify as follows:

1. I am a person registered under the Medical Act, 1858, and I am in the actual practice of the medical profession.

2. On the day of 18 , at[4] in the county[5] of , separately from any other practitioner,[6] I personally examined the said *A. B.* and came to the conclusion that he is a [lunatic, an idiot, *or* a person of unsound mind] and a proper person to be taken charge of and detained under care and treatment.

3. I formed this conclusion on the following grounds, viz.:—

(*a.*) Facts indicating insanity observed by myself at the time of examination [7], viz.:—

(*b.*) Facts communicated by others, viz:—[8]

[*If an urgency certificate is required it must be added here. See* Form 9.]

4. The said *A. B.* appeared to me [*or* not to be] in a fit condition of bodily health to be removed to an asylum, hospital, or licensed house.[9]

5. I give this certificate having first read the section of the Act of Parliament printed below.

Dated (Signed) *C. D.*, of[10]

[1] Insert residence of patient.

[2] City or borough, as the case may be.

[3] Insert profession or occupation, if any.

[4] Insert the place of examination, giving the name of the street, with number or name of house, or should there be no number the Christian and surname of occupier.

[5] City or borough, as the case may be.

[6] Omit this where only one certificate is required.

[7] If the same or other facts were observed previous to the time of the examination, the certifier is at liberty to subjoin them in a separate paragraph.

[8] The names and Christian names (if known) of informants to be given, with their addresses and descriptions.

[9] Strike out this clause in case of a private patient whose removal is not proposed.

[10] Insert full postal address.

*Extract from section* 317 *of the Lunacy Act*, 1890. Schedule II.

Any person who makes a wilful misstatement of any material fact in any medical or other certificate or in any statement or report of bodily or mental condition under this Act, shall be guilty of a misdemeanour.

[If the certificate omits to specify the street and number of the house and other like particulars respecting the place of examination, it will be insufficient on *habeas corpus* for the discharge of the lunatic, who will be discharged unless it is shown that such discharge would be dangerous (*Reg.* v. *Pinder*, 24 L. J. Q. B. 148; 1 Jur. (N. S.) 522).]

FORM 9.

*Statement accompanying Urgency Order.* Sections 11, 28.

I certify that it is expedient for the welfare of the said *A. B.*, [*or* for the public safety, *as the case may be*] that the said *A. B.* should be forthwith placed under care and treatment.

My reasons for this conclusion are as follows: [*state them*].

FORM 10.

*Certificate as to Pauper Lunatic in a Workhouse.* Section 24.

I, the undersigned medical officer of Workhouse of the Union hereby certify that I have carefully examined into the state of health and mental condition of *A. B.*, a pauper in the said workhouse, and that he is in my opinion a lunatic, and a proper person to be allowed to remain in the workhouse as a lunatic, and that the accommodation in the workhouse is sufficient for his proper care and treatment separate from the inmates of the workhouse not lunatics [*or*, that his condition is such that it is not necessary for the convenience of the lunatic or of the other inmates that he should be kept separate].

The grounds for my opinion that the said *A. B.* is a lunatic are as follows:

Dated

(Signed)
Medical Officer of the Workhouse.

FORM 11.

*Order for Detention of Lunatic in Workhouse.* Section 24.

I, the undersigned *C. D.*, a justice of the peace for being satisfied that *A. B.*, a pauper in the workhouse of the is a lunatic [*or* idiot *or* person of unsound mind] and a proper person to be taken charge of under care and treatment in the workhouse, and being satisfied that the accommodation in the workhouse is sufficient for his proper care and

Schedule II.

treatment separate from the inmates of the workhouse not lunatics [*or*, that his condition is such that it is not necessary for the convenience of the lunatic or of the other inmates that he should be kept separate] hereby authorize you to take charge of, and, if the workhouse medical officer shall certify it to be necessary, to detain the said *A. B.* as a patient in your workhouse. Subjoined is a statement of particulars respecting the said *A. B.*

(Signed) *C. D.*,
A justice of the peace for

Dated

To the Master of the
Workhouse
of the

*Statement of Particulars.*

Name of patient and Christian name at length.
Sex and age.
Married, single, or widowed.
Condition of life and previous occupation (if any).
Religious persuasion as far as known.
Previous place of abode.
Whether first attack.
Age (if known) on first attack.
When and where previously under care and treatment.
Duration of existing attack.
Supposed cause.
Whether subject to epilepsy.
Whether suicidal.
Whether dangerous to others.
Whether any near relative has been afflicted with insanity.

Name and Christian name and address of nearest known relative of the patient and degree of relationship if known.

I certify that to the best of my knowledge the above particulars are correct.

[To be signed by the relieving officer.]

FORM 12.

Section 16.

*Order for Reception of a Pauper Lunatic or Lunatic wandering at large.*

I, *C. D.*, having called to my assistance *E. F.* of , a duly qualified medical practitioner, and being satisfied that *A. B.* [*describing him*] is a pauper in receipt of relief [*or* in such circumstances as to require relief for his proper care and maintenance], and that the said *A. B.* is a lunatic [*or* an idiot, *or* a person of unsound mind] and a proper person to be taken charge of and detained under care and treatment, *or* that *A. B.* [*describing him*] is a lunatic, and was wandering at large, and

is a proper person to be taken charge of and detained under care and treatment, hereby direct you to receive the said *A. B.* as a patient into your asylum [*or* hospital, *or* house]. Subjoined is a statement of particulars respecting the said *A. B.*

(Signed) *C. D.*,
A justice of the peace for

Dated the day of one thousand eight hundred and

To the superintendent of the asylum for the county [*or* borough] of [*or* the lunatic hospital of ; *or E. F.* proprietor of the licensed house of ; describing the asylum, hospital, *or* house].

*Note.*—Where the order directs the lunatic to be received into any asylum, other than an asylum of the county or borough in which the parish or place from which the lunatic is sent is situate, or into a registered hospital or licensed house, it shall state, that the justice making the order is satisfied that there is no asylum of such county or borough, or that there is a deficiency of room in such asylum; or (as the case may be) the special circumstances, by reason whereof the lunatic cannot conveniently be taken to an asylum for such first-mentioned county or borough.

*Statement of Particulars.*

Statement of particulars referred to in the above or annexed order.

The following is a statement of particulars relating to the said *A. B.*[1]:—

Name of patient, with Christian name at length.
Sex and age.
†Married, single, or widowed.
†Rank, profession, or previous occupation (if any).
†Religious persuasion.
Residence at or immediately previous to the date hereof.
†Whether first attack.
Age on first attack.
When and where previously under care and treatment as a lunatic, idiot, or person of unsound mind.
†Duration of existing attack.
Supposed cause.
Whether subject to epilepsy.
Whether suicidal.
Whether dangerous to others, and in what way.
Whether any near relative has been afflicted with insanity.

[1] If any particulars are not known, the fact is to be so stated. [Where the patient is in the order described as an idiot omit the particulars marked †.]

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Union to which lunatic is chargeable.
Names, Christian names, and full postal addresses of one or more relatives of the patient.
Name of the person to whom notice of death to be sent, and full postal address if not already given.

(Signed) *G. H.*

*To be signed by the Relieving Officer or Overseer.*

FORM 13.

Section 38. [*Certificate that Patient continues of Unsound Mind:* Repealed by the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 29.]

FORM 14.

Section 229. *Consent to the Admission of a Boarder.*

We hereby sanction the admission of *A. B.* as a boarder into for the term of from the day of in accordance with the provisions of the statute and in terms of *A. B.'s* application.

(Signed)
Two of the Commissioners in Lunacy.
[*or* Two of the justices for .]

Dated the day of 18 .

FORM 15.

Section 13. *Order for Reception of a Lunatic not under proper care and control, or cruelly treated or neglected, to be made by a Justice appointed under the Lunacy Act*, 1890.

I, the undersigned *C. D.*, being a justice for specially appointed under the Lunacy Act, 1890, having caused *A. B.* to be examined by two duly qualified medical practitioners, and being satisfied that the said *A. B.* is a lunatic not under proper care and control [*or* is cruelly treated or neglected by the person having the care or charge of him,] and that he is a proper person to be taken charge of and detained under care and treatment, hereby direct you to receive the said *A. B.* as a patient into your asylum [*or* hospital *or* house]. Subjoined is a statement of particulars respecting the said *A. B.*

(Signed)
A justice of the peace for
appointed under the above-mentioned Act.

Dated

To the Superintendent of the Asylum for ,
*or* of the lunatic hospital of , *or* the resident licensee of the licensed house at .

*Note.*—Where the order directs the lunatic to be received into any asylum, other than an asylum of the county or borough

in which the parish or place from which the lunatic is sent is situate, or into a registered hospital or licensed house, it shall state, that the justice making the order is satisfied that there is no asylum of such county or borough, or that there is a deficiency of room in such asylum; or (as the case may be) the special circumstances, by reason whereof the lunatic cannot conveniently be taken to an asylum for such first-mentioned county or borough.

*Statement of Particulars.*

Statement of particulars referred to in the above or annexed order.

The following is a statement of particulars relating to the said *A. B.* [1]:—

Name of patient, with Christian name at length.
Sex and age.
†Married, single, or widowed.
†Rank, profession, or previous occupation (if any).
†Religious persuasion.
Residence at or immediately previous to the date hereof.
†Whether first attack.
Age on first attack.
When and where previously under care and treatment as a lunatic, idiot, or person of unsound mind.
†Duration of existing attack.
Supposed cause.
Whether subject to epilepsy.
Whether suicidal.
Whether dangerous to others, and in what way.
Whether any near relative has been afflicted with insanity.
Union to which lunatic is chargeable.
Names, Christian names, and full postal addresses of one or more relatives of the patient.
Name of the person to whom notice of death to be sent, and full postal address if not already given.

(Signed)

To be signed by the relieving officer, overseer, or other person on whose information the order is made.

[1] If any particulars are not known, the fact is to be so stated. [Where the patient is in the order described as an idiot omit the particulars marked

FORM 16.

*Certificate of Disability of Person entitled to Payments from a Public Department.* Section 335.

I, , being a justice of the peace for *or* the rector, *or* vicar, *or* minister [*state the denomination and residence*],

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hereby certify that I know the said *A. B.*, and that I believe him *or* her to be unable, by reason of mental disability, to manage his *or* her affairs; and I further certify that I believe the family of the said *A. B.* to consist of .

Dated .

Signed [*Name*].
[*Place of abode.*]

FORM 17.

Section 335.

*Medical Certificate of Disability of Person entitled to Payments from a Public Department.*

I , being a person registered under the Medical Act, 1858, and in the actual practice of my profession, hereby certify that I have this day visited and personally examined *A. B.*, and that the said *A. B.* is unable by reason of mental disability to manage his *or* her affairs, and that I have formed this conclusion on the following grounds, viz.: [*state them*].

Dated

Signed [*Name*].
[*Postal Address in full.*]

FORM 18.

Section 207.

*Form of Licence by Commissioners for a House not previously Licensed.*

Know all men, that we, the Commissioners in Lunacy, do hereby certify that *A. B.* of in the parish of in the county of has delivered to us a plan and description of a house and premises situate at in the county of proposed to be licensed for the reception of lunatics, and we, having considered and approved the same, do hereby authorize the said *A. B.* (he undertaking to reside therein) to use the said house and premises for the reception of male [*or* female, *or* male and female] lunatics, of whom not more than shall be private patients, for calendar months from this date.

Sealed with our common seal this day of 18 .

Witness,
*Y. Z.*, Secretary to the Commissioners of * Lunacy.

* (*Sic*).

FORM 19.

Section 207.

*Form of Licence by Justices for a House not previously Licensed.*

Know all men, that we, the undersigned justices of the peace, acting in and for in general [*or* quarter *or* special] sessions assembled, do hereby certify that *A. B.* of in the parish of in the county of has delivered to the clerk of the peace a plan and description of a house and premises, situate at in the county of proposed to be licensed

for the reception of lunatics, and has applied to us for a licence thereof: And whereas the Commissioners in Lunacy have reported upon the said application, and their report has been received, and has been taken into consideration by us; Now we, having considered and approved the application, do hereby authorize the said *A. B.* (he undertaking to reside therein) to use the said house and premises for the reception of male [*or* female *or* male and female] lunatics, of whom not more than shall be private patients, for the space of calendar months from this date.

Given under our hands and seals this day of 18 .

Witness, *Y. Z.*, Clerk of the Peace.

FORM 20.

*Licence by Commissioners or Justices for a House previously Licensed.* Section 207.

Know all men, that we, the Commissioners in Lunacy [*or* we the undersigned justices of the peace, for in general (*or* quarter *or* special) sessions assembled] do hereby certify that *A. B.* of in the parish of in the county of has delivered to us [*or* the clerk of the peace] a list of the number of patients now detained in a house and premises situate at in the county of licensed on the day of for the reception of lunatics, and we, having considered the same, do hereby authorize the said *A. B.*, he undertaking to reside therein, to use the said house and premises for the reception of male [*or* female *or* male and female] lunatics, of whom not more than shall be private patients, for calendar months from this date.

Sealed with our common seal [*or* Given under our hands and seals], this day of .

Witness,
*Y. Z.*, Secretary to the Commissioners in Lunacy,
[*or* Clerk of the Peace].

FORM 21.

*Form of Agreement for uniting for the purpose of erecting or providing an asylum for the reception of lunatics.* Section 248.

It is agreed this day of between the visiting committees for the county of and the borough of [*as the case may be*], that the said county and borough [*as the case may be*], shall henceforth be united for the purposes of the Lunacy Act, 1890; and that an asylum for the reception of lunatics, with all necessary buildings, courts, yards, and outlets, shall be immediately provided and properly fitted up and

Schedule II.

accommodated for the purposes mentioned in the said Act; and that the necessary expenses attending the providing, building, fitting up, repairs and maintenance of the said asylum shall be defrayed by the said county and borough, so united, in the following proportions, such proportions being fixed according to the probable extent of the accommodation required for the lunatics of the contracting county and borough; (that is to say,)

| | |
|---|---|
| The county of | Five-ninths of the said expenses. |
| The borough of | Four-ninths of the same. |

[*as the case may be, or if the expenses are not fixed with reference to the probable extent of the accommodation, insert instead of the last clause.*]

The expenses shall be from time to time charged upon and raised by such county and borough in proportion to their respective populations as stated in the last return for the time being made of the same under the authority of Parliament.

And it is further agreed, that the committee of visitors to superintend the building, erection, and management of the said asylum shall be appointed in the following proportions; the council for the said county of shall appoint* , and the council for the borough of shall appoint* and the proportions in which the said committee of visitors are to be appointed as aforesaid may be from time to time varied, with the consent in writing under the hands of the greater number of visitors of the said county and borough, and with the consent of the Commissioners in Lunacy. And hereunto, we, the undersigned, being the majority of each of the committees appointed by the said councils respectively, do on behalf of the said councils set our hands and seals, this day of .

FORM 22.

Section 332.

*Form of Summons.*

We, the Commissioners in Lunacy [*or* we whose names are hereunto set and seals affixed, being two of the Commissioners in Lunacy, *or* visitors of ], do hereby summon you personally to appear before us at in the parish of in the county of on next the day of at the hour of in the noon of the same day, and then and there to be examined, and to testify the truth touching certain matters relating to the execution of the Lunacy Act, 1890.

Sealed with the common seal of "The Commissioners in Lunacy" [*or* Given under our hands and seals] this day of .

* Insert in these blanks either the number or the proportion of visitors: and where the number of the committee of visitors is not fixed in the agreement, but only the proportions, a provision shall be made by the agreement for fixing from time to time the number of such committee.

## THE THIRD SCHEDULE.

Schedule III.

*Places within immediate Jurisdiction of Commissioners.* Section 208.

The cities of London and Westminster, the counties of London and Middlesex, and the following parishes and places; (that is to say,) Barnes, Kew Green, Mortlake, Merton, Mitcham, and Wimbledon, in the county of Surrey; Southend, in the county of Kent; and East Ham, Leyton, Leytonstone, Low Leyton, Plaistow, West Ham, and Walthamstow, in the county of Essex; and also every other place, if any, within the distance of seven miles from any part of the cities of London or Westminster, or of the borough of Southwark.

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## THE FOURTH SCHEDULE.

*Boroughs the Councils of which are Local Authorities under this Act.* Sections 169, 240, 245, 246.

| | |
|---|---|
| Barnstaple. | Newark. |
| Bedford. | Newbury. |
| *Berwick-on-Tweed.* | Newcastle-under-Lyme. |
| *Bridgwater.* | *New Sarum.* |
| Bury St. Edmunds. | New Windsor. |
| Cambridge. | Penzance. |
| Colchester. | *Poole.* |
| Doncaster. | Rochester. |
| *Grantham.* | *Scarborough.* |
| Gravesend. | Shrewsbury. |
| Guildford. | Tiverton. |
| Hereford. | Warwick. |
| Kings Lynn. | Wenlock. |
| London (City of). | *Winchester.* |

[References to Maidstone and Dover in this schedule were repealed by the Lunacy Act, 1891 (54 & 55 Vict. c. 65), s. 29.]

[The boroughs printed in italics have ceased to be local authorities under this Act, in accordance with the provisions of sect. 246, *supra*.]

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## THE FIFTH SCHEDULE.

Section 342.

| Session and Chapter. | Title or Short Title. | Extent of Repeal. |
|---|---|---|
| 4 & 5 Will. 4, c. 76 . | An Act for the amendment and better administration of the Laws relating to the Poor in England and Wales. | Section forty-five. |

Schedule V.

FIFTH SCHEDULE (*continued*).

| Session and Chapter. | Title or Short Title. | Extent of Repeal. |
|---|---|---|
| 8 & 9 Vict. c. 100 . | An Act for the regulation of the care and treatment of lunatics. | The whole Act. |
| 13 & 14 Vict. c. 60 . | The Trustee Act, 1850. | Sections three, four, five, six, and fifty-six.<br>Sections twenty, twenty-six, twenty-seven, twenty-eight, thirty-one, forty, forty-one, forty-two, forty-four, forty-five, fifty-one, fifty-two, and fifty-three, so far as they relate to "the Lord Chancellor entrusted as aforesaid."<br>Except so far as the above sections relate to Ireland. |
| 15 & 16 Vict. c. 48 . | An Act for the amendment of the law respecting the property of lunatics. | The whole Act. |
| 15 & 16 Vict. c. 55 . | An Act to extend the provisions of the Trustee Act, 1850. | Sections six and seven, so far as relates to the Lord Chancellor entrusted as aforesaid, and sections ten and eleven.<br>Except so far as the above sections relate to Ireland. |
| 16 & 17 Vict. c. 70 . | The Lunacy Regulation Act, 1853. | The whole Act. |
| 16 & 17 Vict. c. 96 . | An Act to amend an Act passed in the ninth year of Her Majesty for the regulation of the care and treatment of lunatics. | The whole Act. |
| 16 & 17 Vict. c. 97 . | The Lunatic Asylums Act, 1853. | The whole Act. |
| 18 Vict. c. 13 . | An Act to amend and explain the Lunacy Regulation Act, 1853. | The whole Act. |
| 18 & 19 Vict. c. 105 . | An Act to amend the Lunatic Asylums Act, 1853, and the Acts passed in the ninth and seventeenth years of Her Majesty for the regulation of the care and treatment of lunatics. | The whole Act. |

FIFTH SCHEDULE (*continued*). Schedule V.

| Session and Chapter. | Title or Short Title. | Extent of Repeal. |
|---|---|---|
| 19 & 20 Vict. c. 87 . | An Act to amend the Lunatic Asylums Act, 1853. | The whole Act. |
| 23 & 24 Vict. c. 127 . | An Act to amend the law relating to attorneys, solicitors, proctors, and certificated conveyancers. | Section twenty-nine. |
| 24 & 25 Vict. c. 55 . | An Act to amend the laws regarding the removal of the poor, and the contribution of parishes to the common fund in unions. | Section seven. |
| 25 & 26 Vict. c. 86 . | The Lunacy Regulation Act, 1862. | The whole Act. |
| 25 & 26 Vict. c. 111 . | The Lunacy Acts Amendment Act, 1862. | The whole Act. |
| 26 & 27 Vict. c. 110 . | The Lunacy Acts Amendment Act, 1863. | The whole Act. |
| 28 & 29 Vict. c. 80 . | The Lunacy Acts Amendment Act, 1865. | The whole Act. |
| 30 Vict. c. 6 . . | The Metropolitan Poor Act, 1867. | In section thirty, the words "and every such asylum" to the end of the section. |
| 30 & 31 Vict. c. 87 . | The Court of Chancery (Officers) Act, 1867. | Section thirteen. |
| 30 & 31 Vict. c. 106 . | The Poor Law Amendment Act, 1867. | Section twenty-two, except as regards persons suffering from *delirium tremens*, or from bodily disease of a contagious or infectious character. |
| 31 & 32 Vict. c. 122 . | The Poor Law Amendment Act, 1868. | Section forty-three. |
| 34 & 35 Vict. c. 14 . | The County Property Act, 1871. | Section two. |
| 38 & 39 Vict. c. 77 . | The Supreme Court of Judicature Act, 1875. | Section seven.<br>In section twenty-six, the words "(including the percentage on estates of lunatics)" and the words "(including the masters and other officers in lunacy)." |

Schedule V.

FIFTH SCHEDULE (*continued*).

| Session and Chapter. | Title or Short Title. | Extent of Repeal. |
|---|---|---|
| 45 & 46 Vict. c. 82 . | The Lunacy Regulation Amendment Act, 1882. | The whole Act. |
| 48 & 49 Vict. c. 52 . | The Lunacy Acts Amendment Act, 1885. | The whole Act. |
| 51 & 52 Vict. c. 41 . | The Local Government Act, 1888. | Section thirty-two, sub-section three, sub-clause (*c*); section eighty-six, sub-sections one, two, three, four, six, seven, and eight. |
| 52 & 53 Vict. c. 41 . | The Lunacy Acts Amendment Act, 1889. | The whole Act. |

# THE CUSTOMS AND INLAND REVENUE ACT, 1890.

53 & 54 VICT. CHAP. 8.

An Act to grant certain Duties of Customs and Inland Revenue, to repeal and alter other Duties, and to amend the Laws relating to Customs and Inland Revenue.

[9th June, 1890.]

* * * * *

Short title.

[I.] This Act may be cited as the Customs and Inland Revenue Act, 1890.

* * * * *

Amendment of s. 6 of 47 & 48 Vict. c. 62.

XXVII. No alteration of any parish or place for the purposes of poor law administration shall take effect under section six of the Revenue Act, 1884, during the continuance of assessments according to the sums charged in the preceding year; and that section is amended with regard to the places herein-after mentioned, as follows:—

Inns of Court.

(*a.*) The section shall be read as if the Inner Temple, Middle Temple, Lincoln's Inn, and Gray's Inn, and Inns of Chancery thereunto respectively belonging, had been excluded from its operation.

Lambeth.

(*b.*) Sub-section two of the section shall not apply to the parish of Lambeth, in the county of London, but that parish shall, for the purposes of the duties of income tax

and of the duties on inhabited houses and the collection thereof, be divided into the two parts for which separate jurisdictions existed on the fifth day of April one thousand eight hundred and eighty-six, and each of these parts shall for those purposes be deemed to be a parish or place, and shall be within the jurisdiction of the general commissioners who had on that day jurisdiction therein. Sect. 27.

* * * * *

# THE INLAND REVENUE REGULATION ACT, 1890.

53 & 54 VICT. CHAP. 21.

An Act to consolidate certain enactments relating to the Regulation of the Inland Revenue. [25th July, 1890.]

* * * * *

VIII. No commissioner, collector, officer, or person employed under the authority of the Commissioners in relation to Inland Revenue shall be compelled to serve as a mayor or sheriff or in any corporate or parochial or other public office or employment, or on any jury or inquest whatsoever, or in the militia. Privileges of commissioners and officers.

* * * * *

XXXIX. In this Act unless the context otherwise requires :— Definition.

"Inland Revenue" means the revenue of the United Kingdom collected or imposed as stamp duties, taxes, and duties of excise, and placed under the care and management of the commissioners, and any part thereof :

"Commissioner" means Commissioner of Inland Revenue :

* * * * *

"Collector" means collector of Inland Revenue :

"Officer" means officer of Inland Revenue :

* * * * *

XLII. This Act may be cited as the Inland Revenue Regulation Act, 1890. Short title.

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For the various persons entitled to exemption from serving parochial offices, see Archbold's Poor Law, 15th ed., p. 137. Sect. 8. Note.

# INFECTIOUS DISEASE (PREVENTION) ACT, 1890.

53 & 54 VICT. CHAP. 34.

An Act to prevent the spread of Infectious Disease.

[4th August, 1890.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

[This Act mainly applies to local authorities, which, as defined by the Infectious Disease (Notification) Act, 1889 (52 & 53 Vict. c. 72), do not include poor law authorities. Certain duties are, however, cast upon the relieving officer by sect. 10, and the whole Act is printed here as a supplement to the Act of 1889.]

Short title.

I. This Act may be cited as the Infectious Disease (Prevention) Act, 1890.

Definitions.

II. Expressions used in this Act shall, unless the context otherwise requires, have the same meaning as the like expressions used in the Infectious Disease (Notification) Act, 1889; and the provisions of this Act shall apply to the infectious diseases specifically mentioned in that Act, and may be applied to any other infectious disease in the same manner as that Act may be applied to such disease.

In this Act—

"Dairy" shall include any farm, farmhouse, cowshed, milk-store, milk-shop, or other place from which milk is supplied, or in which milk is kept for purposes of sale:

"Dairyman" shall include any cowkeeper, purveyor of milk, or occupier of a dairy:

"Medical officer of health" shall include any person duly authorized to act temporarily as medical officer of health:

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Extent of Act.

III. The provisions of this Act shall extend—

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(*b.*) to any urban or rural sanitary district after the adoption thereof;

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Sect. 2. Note.

Repealed in part by the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 142.

Sect. 3. Note.

Repealed in part by the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 143.

and the local authority of any urban or rural sanitary district may adopt all or any of the sections of this Act by a resolution passed at a meeting of such authority. Fourteen clear days at least before such meeting special notice of the meeting, and of the intention to propose such resolution, shall be given to every member of the local authority, and the notice shall be deemed to have been duly given to a member if it is either—

(*a.*) given in the mode in which notices to attend meetings of the local authority are usually given; or

(*b.*) where there is no such mode, then signed by the clerk of the local authority and delivered to the member or left at his usual or last known place of abode in England, or forwarded by post in a prepaid letter addressed to the member at his usual or last known place of abode in England.

Every such resolution shall be published by advertisement in a local newspaper, and by handbills, and otherwise in such manner as the local authority think sufficient for giving notice thereof to all persons interested, and shall come into operation at such time, not less than one month after the first publication of the advertisement of the resolution, as the local authority may fix; and upon its coming into operation such of the sections of this Act as are mentioned in such resolution shall extend to the district.

A copy of the resolution shall be sent to the Local Government Board when it is published.

A copy of the advertisement shall be conclusive evidence of the resolution having been passed, unless the contrary be shown; and no objection to the effect of the resolution, on the ground that notice of the intention to propose the same was not duly given, or on the ground that the resolution was not sufficiently published, shall be made after three months from the date of the first advertisement.

Inspection of dairies in certain cases: power to prohibit supply of milk.

IV. In case the medical officer of health is in possession of evidence that any person in the district is suffering from infectious disease attributable to milk supplied within the district from any dairy situate within or without the district, or that the consumption of milk from such dairy is likely to cause infectious disease to any person residing in the district, such medical officer shall, if authorized in that behalf by an order of a justice having jurisdiction in the place where such dairy is situate, have power to inspect such dairy, and if accompanied by a veterinary inspector or some other properly qualified veterinary surgeon to inspect the animals therein, and if on such inspection the medical officer of health shall be of opinion that infectious disease is caused from consumption of the milk supplied therefrom, he shall report thereon to the local authority, and his report shall be accompanied by any

Sect. 4.

report furnished to him by the said veterinary inspector or veterinary surgeon, and the local authority may thereupon give notice to the dairyman to appear before them within such time, not less than twenty-four hours, as may be specified in the notice, to show cause why an order should not be made requiring him not to supply any milk therefrom within the district until such order has been withdrawn by the local authority, and if, in the opinion of the local authority, he fails to show such cause, then the local authority may make such order as aforesaid; and the local authority shall forthwith give notice of the facts to the sanitary authority and county council (if any) of the district or county in which such dairy is situate, and also to the Local Government Board. An order made by a local authority in pursuance of this section shall be forthwith withdrawn on the local authority or the medical officer of health on its behalf being satisfied that the milk supply has been changed, or that the cause of the infection has been removed. Any person refusing to permit the medical officer of health on the production of such order as aforesaid to inspect any dairy, or if so accompanied as aforesaid to inspect the animals kept there, or after any such order not to supply milk as aforesaid has been given, supplying any milk within the district in contravention of such order, or selling it for consumption therein, shall be deemed guilty of an offence against this Act. Provided always, that proceedings in respect of such offence shall be taken before the justices of the peace having jurisdiction in the place where the said dairy is situate. Provided also, that no dairyman shall be liable to an action for breach of contract if the breach be due to an order from the local authority under this Act.

Cleansing and disinfecting of premises, &c.

38 & 39 Vict. c. 55.

V. . . . Section one hundred and twenty of the Public Health Act, 1875, so far as it applies to any urban or rural sanitary district in which this section is adopted, shall be repealed, and the following provisions shall be in force instead thereof, viz.:

(1) Where the medical officer of health of any local authority, or any other registered medical practitioner, certifies that the cleansing and disinfecting of any house, or part thereof, and of any articles therein likely to retain infection, would tend to prevent or check infectious disease, the clerk to the local authority shall give notice in writing to the owner or occupier of such house or part thereof that the same and any such articles therein will be cleansed and disinfected by the local authority at the cost of such owner or occupier, unless he informs the local

Sect. 5. Note.

Repealed in part by the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 142.

authority within twenty-four hours from the receipt of the notice that he will cleanse and disinfect the house or part thereof and any such articles therein to the satisfaction of the medical officer of health, within a time fixed in the notice.

(2) If, within twenty-four hours from the receipt of the notice, the person to whom the notice is given does not inform the local authority as aforesaid, or if, having so informed the local authority, he fails to have the house or part thereof and any such articles disinfected as aforesaid within the time fixed in the notice, the house or part thereof and articles shall be cleansed and disinfected by the officers of the local authority under the superintendence of the medical officer of health, and the expenses incurred may be recovered from the owner or occupier in a summary manner.

(3) Provided that where the owner or occupier of any such house or part thereof is unable in the opinion of the local authority, or of their medical officer of health, effectually to cleanse and disinfect such house or part thereof, and any article therein likely to retain infection, the same may without any such notice being given as aforesaid, but with the consent of such owner or occupier, be cleansed and disinfected by the officers of and at the cost of the local authority.

Disinfection of bedding, &c.

VI. Any local authority, or the medical officer of health of any local authority generally empowered by the authority in that behalf, may by notice in writing require the owner of any bedding, clothing, or other articles which have been exposed to the infection of any infectious disease to cause the same to be delivered over to an officer of the local authority for removal for the purpose of disinfection; and any person who fails to comply with such a requirement shall be liable to a penalty not exceeding ten pounds.

The bedding, clothing, and articles shall be disinfected by the authority, and shall be brought back and delivered to the owner free of charge, and if any of them suffer any unnecessary damage the authority shall compensate the owner for the same and the amount of compensation shall be recoverable in, and in case of dispute shall be settled by, a court of summary jurisdiction.

Penalty on persons ceasing to occupy houses without previous disinfection

VII. Every person who shall cease to occupy any house, room, or part of a house in which any person has within six weeks previously been suffering from any infectious disease without having such house, room, or part of a house, and all articles therein liable to retain infection, disinfected to the

Sect. 7.

or giving notice to owner, or persons making false answers.

satisfaction of a registered medical practitioner, as testified by a certificate signed by him, or without first giving to the owner of such house, room, or part of a house, notice of the previous existence of such disease, and every person ceasing to occupy any house, room, or part of a house, and who on being questioned by the owner thereof, or by any person negotiating for the hire of such house, room, or part of a house as to the fact of there having within six weeks previously been therein any person suffering from any infectious disease knowingly makes a false answer to such question shall be liable to a penalty not exceeding ten pounds.

Prohibiting retention of dead bodies in certain cases.

VIII. No person without the sanction in writing of the medical officer of health or of a registered medical practitioner, shall retain unburied elsewhere than in a public mortuary or in a room not used at the time as a dwelling-place, sleeping-place, or workroom, for more than forty-eight hours, the body of any person who has died of any infectious disease.

Bodies of persons dying of infectious diseases in hospital, &c., to be removed only for burial.

IX. If any person shall die from any infectious disease in any hospital or place of temporary accommodation for the sick, and the medical officer of health, or any other registered medical practitioner, certifies that in his opinion it is desirable, in order to prevent the risk of communicating any infectious disease or of spreading infection, that the body shall not be removed from such hospital or place except for the purpose of being forthwith buried, it shall not be lawful for any person or persons to remove such body from such hospital or place except for the last-mentioned purpose; and when the body is taken out of such hospital for that purpose it shall be forthwith carried or taken direct to some cemetery or place of burial, and shall be forthwith there buried; and any person wilfully offending against this section shall be liable to a penalty not exceeding ten pounds. Nothing in this Act shall prevent the removal of any dead body from any hospital or temporary place of accommodation for the sick to any mortuary, and such mortuary shall, for the purposes of this section, be deemed part of such hospital or place as aforesaid.

Justices may in certain cases order dead bodies to be buried.

X. Where the body of any person who has died from any infectious disease remains unburied elsewhere than in a mortuary or in a room not used at the time as a dwelling-place, sleeping-place, or workroom, for more than forty-eight hours after death without the sanction of the medical officer of health or of a registered medical practitioner, or where the dead body of any person is retained in any house or building

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Sect. 10. Note.

For a statement of the persons "legally liable to pay the expenses of such burial" see note to sect. 89 (2) of the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), *post*.

so as to endanger the health of the inmates of such house or building, or of any adjoining or neighbouring house or building, any justice may, on the application of the medical officer of health, order the body to be removed at the cost of the local authority to any available mortuary, and direct the same to be buried within a time to be limited in the order; and any justice may, in the case of the body of any person who has died of any infectious disease, or in any case in which he shall consider immediate burial necessary, direct the body to be so buried. Unless the friends or relatives of the deceased undertake to bury and do bury the body within the time limited by such order, it shall be the duty of the relieving officer of the relief district from which the body has been removed to the mortuary, or in which the body shall be, if it has not been so removed, to bury such body, and any expense so incurred may be charged by the relieving officer in his accounts, and may be recovered by the board of guardians in a summary manner from any person legally liable to pay the expenses of such burial.

Disinfection of public conveyances if used for carrying corpses.

XI. Any person who hires or uses a public conveyance other than a hearse for the conveyance of the body of a person who has died from any infectious disease, without previously notifying to the owner or driver of such public conveyance that the person whose body is or is intended to be so conveyed has died from infectious disease, and after any such notification as aforesaid, any owner or driver of a public conveyance, other than a hearse, which has been used for conveying the body of a person who has died from infectious disease, who shall not immediately afterwards provide for the disinfection of such conveyance, shall be guilty of an offence under this Act.

Detention of infected person without proper lodging in hospital by order of justice.

XII. Any justice of the peace acting in and for the district of the local authority, upon proper cause shown to him, may make an order directing the detention in hospital at the cost of the local authority of any person suffering from any infectious disease, who is then in an hospital for infectious disease and would not on leaving such hospital be provided with lodging or accommodation in which proper precautions could be taken to prevent the spreading of the disorder by such person. Any order so to be made by any such justice may be limited to some specific time, but with full power to any justice to enlarge such time as often as may appear to him to be necessary. It shall be lawful for any officer of the local authority or inspector of police acting in the district, or for any officer of the hospital, on any such order being made to take all necessary measures and do all necessary acts for enforcing the execution thereof.

Infectious rubbish thrown into

XIII. Any person who shall knowingly cast, or cause or permit to be cast, into any ash-pit, ash-tub, or other receptacle

Sect. 13.

ash-pits, &c., to be disinfected.

for the deposit of refuse matter any infectious rubbish without previous disinfection, shall be guilty of an offence under this Act.

Notice of certain provisions.

XIV. Where sections seven and thirteen of this Act, or either of them, are in force in any district, the local authority shall give notice of the provisions thereof to the occupier of any house in which they are aware that there is a person suffering from an infectious disease.

Temporary shelter, &c.

XV. The local authority shall from time to time provide, free of charge, temporary shelter or house accommodation with any necessary attendants for the members of any family in which any infectious disease has appeared, who have been compelled to leave their dwellings for the purpose of enabling such dwellings to be disinfected by the local authority.

Penalties.

XVI. Every person who shall wilfully obstruct any duly authorized officer of the local authority in carrying out the provisions of this Act, or who shall obstruct the carrying out of an order made by a justice under this Act, or who shall offend against any enactment of this Act for the time being in force in any district by which no penalty is specifically imposed, shall be liable to a penalty not exceeding five pounds, and if the offence is a continuing one, to a daily penalty not exceeding forty shillings a day so long as the offence continues.

Power of entry for purposes of s. 5.

XVII. For the purpose of carrying into effect the provisions of section five of this Act the local authority may, by any officer appointed in that behalf, who shall produce his authority in writing, enter on any premises between the hours of ten o'clock of the forenoon and six o'clock of the afternoon.

Recovery and application of penalties.

XVIII. Every penalty imposed by this Act shall be recoverable in a court of summary jurisdiction on the information or complaint of the local authority, or of their duly authorized officer, but not otherwise, and shall be paid to the local authority.

Superseding in certain cases of provisions in local Acts.

XIX. Where a provision of this Act is put in force in any district in which there is any similar provision in force contained in any local Act, such last-mentioned provision shall cease to be in operation.

Expenses.

XX. Any expenses incurred by a local authority in the execution of any of the provisions of this Act, including the reasonable remuneration of any veterinary inspector or surgeon employed under section four, shall be paid as part of the

expenses of such authority in the execution of the Acts relating to public health, and in the case of a rural authority shall be general expenses. Sect. 20.

XXI. Any resolution adopting all or any of the sections of this Act may be rescinded, either wholly or as regards any of the adopted sections, by resolution of the local authority, but notice of the meeting at which such resolution is to be proposed, and of the intention to propose the same, shall be given, and such resolution shall be published, and shall come into operation, in like manner and at such time as is herein-before provided with respect to resolutions adopting this Act, and a copy of the resolution shall be sent to the Local Government Board when it is published. Power of local authority to rescind adoption of Act.

On the resolution coming into effect the sections of this Act, the adoption of which is thereby rescinded, shall cease to extend to the district.

The provisions herein-before contained, as to evidence of and objections to the effect of a resolution adopting this Act, shall apply to any resolution rescinding such adoption.

XXII. This Act shall not apply to Scotland. Extent of Act.

[Sect. 23. Application of Act to Ireland.]

XXIV. Nothing in or done under this Act, shall interfere with the operation or effect of the Contagious Diseases (Animals) Acts, 1878 to 1886, or of any order, licence, or act of Her Majesty's Privy Council or the Local Government Board made, granted, or done, or to be made, granted, or done, thereunder; or of any order, regulation, licence, or act of a local authority made, granted, or done under any such order of the Privy Council or the Local Government Board; or exempt any dairy, or building, or thing whatsoever, or any body or person from the provisions of any general Act relating to dairies, milk, or animals, already passed, or to be passed in this or any future session of Parliament. Saving for Acts relating to dairies, animals, &c.

# THE BANKRUPTCY ACT, 1890.

## 53 & 54 VICT. CHAP. 71.

An Act to amend the Law of Bankruptcy.

[18th August, 1890.]

WHEREAS it is expedient to amend the Bankruptcy Act, 1883 (herein-after referred to as the principal Act), and other enactments relating to bankruptcy. 46 & 47 Vict. c. 52.

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Compositions and schemes of arrangement.

III.—(1) Where a debtor intends to make a proposal for a composition in satisfaction of his debts, or a proposal for a scheme of arrangement of his affairs, he shall, within four days of submitting his statement of affairs, or within such time thereafter as the official receiver may fix, lodge with the official receiver a proposal in writing, signed by him, embodying the terms of the composition or scheme which he is desirous of submitting for the consideration of his creditors, and setting out particulars of any sureties or securities proposed.

(2) In such case the official receiver shall hold a meeting of creditors, before the public examination of the debtor is concluded, and send to each creditor, before the meeting, a copy of the debtor's proposal with a report thereon; and if at that meeting a majority in number and three fourths in value of all the creditors who have proved resolve to accept the proposal, the same shall be deemed to be duly accepted by the creditors, and when approved by the court shall be binding on all the creditors.

(3) The debtor may at the meeting amend the terms of his proposal, if the amendment is, in the opinion of the official receiver, calculated to benefit the general body of creditors.

(4) Any creditor who has proved his debt may assent to or dissent from the proposal by a letter, in the prescribed form, addressed to the official receiver so as to be received by him not later than the day preceding the meeting, and any such assent or dissent shall have effect as if the creditor had been present and had voted at the meeting.

(5) The debtor or the official receiver may, after the proposal is accepted by the creditors, apply to the court to approve it, and notice of the time appointed for hearing the application shall be given to each creditor who has proved.

(6) The application shall not be heard until after the conclusion of the public examination of the debtor. Any creditor who has proved may be heard by the court in opposition to the application, notwithstanding that he may at a meeting of creditors have voted for the acceptance of the proposal.

(7) The court shall, before approving the proposal, hear a report of the official receiver as to the terms thereof, and as to the conduct of the debtor, and any objections which may be made by or on behalf of any creditor.

(8) If the court is of opinion that the terms of the proposal are not reasonable, or are not calculated to benefit the general body of creditors, or in any case in which the court is required where the debtor is adjudged bankrupt to refuse his discharge, the court shall refuse to approve the proposal.

(9) If any facts are proved on proof of which the court would be required either to refuse, suspend, or attach conditions to the debtor's discharge were he adjudged bankrupt, the court shall refuse to approve the proposal, unless it provides

reasonable security for payment of not less than seven shillings and sixpence in the pound on all the unsecured debts provable against the debtor's estate.

(10) In any other case the court may either approve or refuse to approve the proposal.

(11) If the court approves the proposal, the approval may be testified by the seal of the court being attached to the instrument containing the terms of the proposed composition or scheme, or by the terms being embodied in an order of the court.

(12) A composition or scheme accepted and approved in pursuance of this section shall be binding on all the creditors so far as relates to any debts due to them from the debtor and provable in bankruptcy, but shall not release the debtor from any liability under a judgment against him in an action for seduction, or under an affiliation order, or under a judgment against him as a co-respondent in a matrimonial cause, except to such an extent and under such conditions as the court expressly orders in respect of such liability.

(13) A certificate of the official receiver that a composition or scheme has been duly accepted and approved shall, in the absence of fraud, be conclusive as to its validity.

(14) The provisions of a composition or scheme under this section may be enforced by the court on application by any person interested, and any disobedience of an order of the court made on the application shall be deemed a contempt of court.

(15) If default is made in payment of any instalment due in pursuance of the composition or scheme, or if it appears to the court, on satisfactory evidence, that the composition or scheme cannot, in consequence of legal difficulties, or for any sufficient cause, proceed without injustice or undue delay to the creditors or to the debtor, or that the approval of the court was obtained by fraud, the court may, if it thinks fit, on application by the official receiver or the trustee, or by any creditor, adjudge the debtor bankrupt, and annul the composition or scheme, but without prejudice to the validity of any sale, disposition, or payment duly made, or thing duly done, under or in pursuance of the composition or scheme. Where a debtor is adjudged bankrupt under this sub-section, any debt provable in other respects, which has been contracted before the adjudication, shall be provable in the bankruptcy.

(16) If under or in pursuance of a composition or scheme a trustee is appointed to administer the debtor's property or manage his business, or to distribute the composition, section twenty-seven and Part V. of the principal Act shall apply as if the trustee were a trustee in a bankruptcy, and as if the terms "bankruptcy," "bankrupt," and "order of adjudication," included respectively a composition or scheme of arrangement,

Sect. 3.

a compounding or arranging debtor, and order approving the composition or scheme.

(17) Part III. of the principal Act shall, so far as the nature of the case and the terms of the composition or scheme admit, apply thereto, the same interpretation being given to the words "trustee," "bankruptcy," "bankrupt," and "order of adjudication," as in the last preceding sub-section.

(18) No composition or scheme shall be approved by the court which does not provide for the payment in priority to other debts of all debts directed to be so paid in the distribution of the property of a bankrupt.

(19) The acceptance by a creditor of a composition or scheme shall not release any person who under the principal Act and this Act would not be released by an order of discharge if the debtor had been adjudged bankrupt.

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Disqualification of bankrupt.

IX. No disqualification arising by virtue of section thirty-two of the principal Act shall exceed a period of five years from the date of any discharge which may have been, or may hereafter be, granted under and by virtue of the principal Act, or of this Act. It is hereby declared that the disqualifications arising by virtue of the said section include disqualification for being elected to, or holding or executing the office of, a member of a county council.

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Short title and construction.

XXXI.—(1) This Act may be cited as the Bankruptcy Act, 1890; and the principal Act and this Act may be cited collectively as the Bankruptcy Acts, 1883 and 1890.

(2) This Act and the principal Act shall be construed as one Act.

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Sect. 3. Note. Sub-s. (18).

Among the debts directed by the Preferential Payments in Bankruptcy Act, 1888 (51 & 52 Vict. c. 62), s. 1 (1), to be paid in priority to all other debts are all parochial or other local rates due from the bankrupt at the date of the receiving order, and having become due and made payable within twelve months next before such time.

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Sect. 9. Note.

Compare this section with the provision as to disqualification for being a guardian arising from bankruptcy contained in the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 46 (1) (c). By that section the disqualification attaches only to a person who has within five years before his election been *adjudged* bankrupt; but by the Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 32, as qualified by this section, the disqualification remains (except on annulment or on discharge with a certificate of misfortune), until the expiration of five years from the date of any discharge under the Bankruptcy Acts.

# THE CUSTODY OF CHILDREN ACT, 1891.

## 54 & 55 VICT. CHAP. 3.

An Act to amend the law relating to the custody of children.

[26th March, 1891.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Power of Court as to production of child.

I. Where the parent of a child applies to the High Court or the Court of Session for a writ or order for the production of the child, and the court is of opinion that the parent has abandoned or deserted the child, or that he has otherwise so conducted himself that the court should refuse to enforce his right to the custody of the child, the court may in its discretion decline to issue the writ or make the order.

Power of Court to order repayment

II. If at the time of the application for a writ or order for the production of the child the child is being brought up by

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Sect. 1. Note.

For definition of "parent" see sect. 5, *post*. The use of the words "writ or order" refer to the two methods of application to the High Court for the production of a child (1) by application for the issue of writ of *habeas corpus*, or (2) by petition to the Court of Chancery, as to which see *Lyons* v. *Blenkin*, Jac. 245. By the Infants Custody Act, 1873 (36 & 37 Vict. c. 12), s. 1, the court has a discretion to refuse a writ of *habeas corpus* to a father in order to remove a child of tender years from the custody of the mother (*Re Brown* (*Ethel*), 13 Q. B. D. 614; 51 L. T. 793; 33 W. R. 79).

In *Reg.* v. *Gyngall*, [1893] 2 Q. B. 232, 62 L. J. Q. B. 559; 69 L. T. 481, Lord Esher, M.R., said, "The statute (54 & 55 Vict. c. 3) does not affect the jurisdiction formerly exercised of the Court of Chancery; sect. 1 only gives the court a discretion not to issue a *habeas corpus* in cases within it; and sect. 3 [misprinted sect. 4] takes away the discretion to order the child to be delivered up to the parent in certain cases."

By the Prevention of Cruelty to Children Act, 1894 (57 & 58 Vict. c. 41), s. 6, power is given to a court of summary jurisdiction to transfer the custody of a child from its parent or former guardian to a relation or other person who is, in the opinion of the court, fitted to have such custody, whenever the person having the custody, charge, or care of the child has been (a) convicted of an offence under sect. 1 of that Act, or any offence involving bodily injury to a child; or (b) committed for trial for such offence; or (c) bound over to keep the peace towards such child.

Sect. 2. Note.

Children may be boarded out by the guardians of a poor law union in places outside the union to which they are chargeable under the General Boarding-out Order, 1889, and in places inside

Sect. 2. of costs of bringing up child.

another person, or is boarded out by the guardians of a poor law union, or by a parochial board in Scotland, the court may, in its discretion, if it orders the child to be given up to the parent, further order that the parent shall pay to such person, or to the guardians of such poor law union, or to such parochial board, the whole of the costs properly incurred in bringing up the child, or such portion thereof as shall seem to the court to be just and reasonable, having regard to all the circumstances of the case.

Court in making order to have regard to conduct of parent.

III. Where a parent has—

(*a.*) Abandoned or deserted his child; or

(*b.*) Allowed his child to be brought up by another person at that person's expense, or by the guardians of a poor law union, for such a length of time and under such circumstances as to satisfy the court that the parent was unmindful of his parental duties;

the court shall not make an order for the delivery of the child to the parent, unless the parent has satisfied the court that, having regard to the welfare of the child, he is a fit person to have the custody of the child.

Power to Court as to child's religious education.

IV. Upon any application by the parent for the production or custody of a child, if the court is of opinion that the parent ought not to have the custody of the child, and that the child

Sect. 2. Note.

the union to which they are chargeable under the General Boarding-out of Children in Unions Order, 1889. The details of both orders will be found in Archbold's Poor Law, 15th ed., pp. 340 *et seq.*

Sect. 3. Note.

By the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 1, where a child has been deserted by its parent, a board of guardians may, by resolution, constitute themselves its guardians, with all the rights and powers of the parent, to be exercised until the child reaches the age of sixteen, if a boy, or eighteen if a girl, or until the guardians rescind the resolution, or a court of summary jurisdiction sets the resolution aside at the instance of the parent. It is to be observed, however, that the word "parent" is used in that Act as implying either the father or the mother of the child, and not in the wider sense in which it is used in this Act.

Sect. 4. Note.

No age has been fixed by English courts defining the age at which a male child is at liberty to exercise a discretion as to what order should be made as to his custody, etc., but the Irish courts have fixed the age at fourteen (*Re Connor*, 16 Ir. C. L. 112; *Re Shanahan*, 5 Ir. Jur. 58); but the age of sixteen has been fixed by our courts as such age in female children (*Reg.* v. *Howes*, 30 L. J. M. C. 47). It appears in *Reg.* v. *Gyngall*, [1893] 2 Q. B. 232; 62 L. J. Q. B. 559; 69 L. T. 481, that the girl, who was between fifteen and sixteen years old, was consulted; and the M. R. said, "in a year she would have a right to act on her own views."

is being brought up in a different religion to that in which the parent has a legal right to require that the child should be brought up, the court shall have power to make such order as it may think fit to secure that the child be brought up in the religion in which the parent has a legal right to require that the child should be brought up. Nothing in this Act contained shall interfere with or affect the power of the court to consult the wishes of the child in considering what order ought to be made, or diminish the right which any child now possesses to the exercise of its own free choice. Sect. 4.

V. For the purposes of this Act the expression "parent" of a child includes any person at law liable to maintain such child or entitled to his custody, and "person" includes any school or institution. Definitions of "parent" and "person."

VI. This Act may be cited as the Custody of Children Act, 1891. Short title.

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# THE ARMY (ANNUAL) ACT, 1891.

54 & 55 VICT. CHAP. 5.

An Act to provide, during twelve months, for the Discipline and Regulation of the Army. [26th March, 1891.]

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[I.] This Act may be cited as the Army (Annual) Act, 1891. Short title.

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*Amendments of Army Act.*

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VI. Whereas the enactment referred to in sub-section three of section ninety-one of the Army Act has been superseded by the Lunacy Act, 1890, and it is expedient to substitute a reference to that Act; be it therefore enacted that— Amendment of 44 & 45 Vict. c. 58, s. 91, as to lunatic soldiers.

In section ninety-one of the Army Act for the words "an order by a justice within the meaning of section seventy-two of the Act of the session of the sixteenth and seventeenth years of the reign of Her present Majesty, chapter ninety-seven, intituled, 'An Act to consolidate and amend the laws for the provision and regulation of lunatic asylums for counties and boroughs, and for the maintenance and care of pauper lunatics in England,'" shall be substituted the words "a summary reception order within the meaning of the Lunacy Act, 1890." 53 & 54 Vict. c. 5.

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For the persons who are at law liable to maintain a child, see Archbold's Poor Law, 15th ed., pp. 254 *et seq.* Sect. 5. Note.

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Amendment of 44 & 45 Vict. c. 58, s. 145, as to liability of soldier for maintenance of wife or child.

VII. Whereas by section one hundred and forty-five of the Army Act provision is made for the enforcement of orders for payment by a soldier of the cost of maintenance of his wife or child or of any bastard child of whom he is the putative father, or of the cost of any relief to his wife or child given by way of loan, and doubts have been entertained as to the application of this provision in cases where a man becomes a soldier subsequently to the making of the order, and it is expedient to remove such doubts; be it therefore enacted that—

In sub-section two of section one hundred and forty-five of the Army Act for the words "for payment by a soldier of the regular forces" shall be substituted the words "for payment by a man who is or subsequently becomes a soldier of the regular forces."

Amendment of 44 & 45 Vict. c. 58, s. 146, as to qualification of officer for county council.

VIII. To section one hundred and forty-six of the Army Act (which disqualifies officers of the regular forces for holding certain offices) the following proviso shall be added:—

"Provided that nothing in this section shall disqualify any officer for being elected to or being a member of a county council."

# THE TITHE ACT, 1891.

54 & 55 VICT. CHAP. 8.

An Act to make better provision for the Recovery of Tithe Rentcharge in England and Wales. [26th March, 1891.]

[The only sections bearing upon the poor law in this Act are sects. 6, 7; but some of the other sections are necessary to follow the working of these sections, and the whole of the Act is therefore printed here.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Liability of owner to pay tithe rentcharge, and modification of contracts with tenants.

I.—(1) Tithe rentcharge as defined by this Act issuing out of any lands shall be payable by the owner of the lands, notwithstanding any contract between him and the occupier of such lands, and any contract made between an occupier and owner of lands, after the passing of this Act, for the payment of the tithe rentcharge by the occupier shall be void.

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The qualification for being elected a member of a county council is defined by sect. 2 of the Local Government Act, 1888 (51 & 52 Vict. c. 41).

(2) Where the occupier is liable under any contract made before the passing of this Act to pay the tithe rentcharge, then he shall cease to be bound by that part of his contract, but he shall be liable to pay to the owner such sum as the owner has properly paid on account of the tithe rentcharge which such occupier is liable under his said contract to pay, exclusive of any costs incurred or paid by the owner in respect of such tithe rentcharge, and every receipt given for such sum shall state expressly that the sum is paid in respect of that tithe rentcharge: Provided that where the lands, out of which any tithe rentcharge issues, are occupied by several occupiers who have contracted to pay the tithe rentcharge, any of such occupiers shall be liable only to pay such proportion of the sum paid by the owner of the lands on account of that tithe rentcharge as the rateable value of the lands occupied by him bears to the rateable value of the whole of the lands occupied by such occupiers.

(3) Such sum shall be recoverable from the occupier by distress in like manner as is provided by sections eighty-one and eighty-five of the Act of the session of the sixth and seventh years of the reign of King William the Fourth, chapter seventy-one, and the enactments amending those sections, and not otherwise.

Recovery of tithe rentcharge through county court.

II.—(1) Where any sum due on account of tithe rentcharge issuing out of any lands is in arrear for not less than three months, the person entitled to such sum may, whatever is the amount, apply to the county court of the district in which the lands or any part thereof are situate, and the county court, after such service on the owner of the lands as may be prescribed, and after hearing such owner if he appears and desires to be heard, may order that the said sum, or such part thereof as appears to the court to be due, be, together with the costs, recovered in manner provided by this Act, and tithe rentcharge as defined by this Act shall not be recovered in any other manner.

(2) Where it is shown to the court that the lands are occupied by the owner thereof, the order shall be executed by the appointment by the court of an officer who, subject to the direction of the court, shall have the like powers of distraint for the recovery of the sum ordered to be paid as are conferred by the Tithe Acts on the owner of a tithe rentcharge for the recovery of arrears of tithe rentcharge, and no greater or other powers; and if there is no sufficient distress the person entitled to the sum ordered to be recovered may proceed to obtain possession of the lands under section eighty-two of the Tithe Act, 1836.

6 & 7 Will. 4. c. 71.

(3) In any other case the order shall be executed by the appointment by the court of a receiver of the rents and profits of the lands, and of any other lands which would be liable to be

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distrained upon for the tithe rentcharge to which the order refers under the provisions of section eighty-five of the Tithe Act, 1836, and where any of such lands are held at one rent together with other lands in another parish, the court shall apportion the rent between the said lands and the lands in the other parish in proportion to their rateable value, in which case the payment of such apportioned rent by the occupier to the receiver shall in every respect, as between the occupier and the owner of the lands, be deemed to be a payment on account of the total rent payable to the owner of such lands.

(4) Subject to the prescribed regulations, the county court shall have the same powers over receivers as in any other case, and may confer on the person appointed receiver any powers which the court can confer upon persons appointed receivers, but the court shall not have power to order the sale of the lands.

(5) Any sum ordered by the court under this section to be recovered shall be payable by a trustee in bankruptcy, sheriff, or officer of a court who is in possession of the lands, in like manner as if it were tithe rentcharge recoverable under the Tithe Acts.

(6) Where the occupier of the lands out of which the tithe rentcharge issues is liable under any contract made before the passing of this Act to pay the tithe rentcharge, and is consequently liable by virtue of this Act to pay the amount thereof to the owner of the lands, the owner of the lands shall serve notice of such liability on the owner of the tithe rentcharge, and thereupon, before an order under this section is made, there shall be such service on the occupier in addition to the owner as may be prescribed, and a hearing of such occupier if he appears and desires to be heard. Any owner of the lands who fails to serve such notice as aforesaid on the owner of the tithe rentcharge, shall not be entitled to recover from the occupier any sum which he has paid on account of tithe rentcharge as aforesaid, unless and until he has, after notice to the occupier of his application for the same, obtained from the county court a certificate that there was good and sufficient cause for the failure to give such notice, and that the occupier has not been prejudiced thereby.

(7) Rules under this Act may regulate the procedure practice and costs under this Act in county courts, and may direct what service shall be good service for the purposes of this Act on the owner or occupier of any lands or the owner of any tithe rentcharge, and may provide that, if the owner of any lands is not known, any proceeding under this Act may be taken against the owner of the lands without naming the person who is the owner.

(8) The fees payable on the proceedings under this section shall not exceed those set forth in the schedule to this Act, and

the fees, charges, and expenses in or incidental to any distress under this Act shall be the same as are for the time being payable under the Law of Distress Amendment Act, 1888. Sect. 2. 51 & 52 Vict. c. 21.

(9) Nothing in this Act shall impose or constitute any personal liability upon any occupier or owner of lands for the payment of any tithe rentcharge, or any other sum recoverable or payable under this Act, and the court shall not by virtue of this Act, or of the County Courts Act, 1888, have any power to imprison any such occupier or owner by reason only of the nonpayment of such tithe rentcharge or other sum, and shall in any other case have no other or greater powers of fine or imprisonment than are conferred by the County Courts Act, 1888. 51 & 52 Vict. c. 43.

III.—(1) The Lord Chancellor may, after consultation with the Rule Committee of County Court Judges, make rules for carrying this Act into effect, and for regulating, providing, and prescribing any matter authorized by this Act to be regulated, provided, or prescribed by rules under this Act. In framing such rules regard shall be had to making the procedure as simple and inexpensive as is practicable. Rules.

(2) Every rule under this Act shall be laid before each House of Parliament within forty days next after it is made, if Parliament is then sitting, or, if not, within forty days after the commencement of the then next ensuing session, and if an address is presented to Her Majesty by either House of Parliament within the next subsequent forty days on which the said House shall have sat, praying that any such rule may be annulled, Her Majesty may thereupon, by Order in Council, annul the same; and the rule so annulled shall thenceforth become void and of no effect, but without prejudice to the validity of any proceedings which may in the meantime have been taken under the same.

IV. Where a receiver appointed under this Act of the rents and profits of any lands satisfies the county court that the lands are let on such terms as not to reserve a rent sufficient to enable the receiver to recover from the owner thereof the sum ordered to be recovered, the court, after such service on the owner and occupier of the lands as may be prescribed, and after hearing such owner and occupier if they appear and desire to be heard, may direct that the order for such recovery shall be executed as if the occupier were the owner of the lands: Provided that any such occupier shall be entitled in addition to any other remedy, unless he would have been liable to pay the tithe rentcharge under any contract made before the passing of this Act, to deduct from any sums at any time becoming Lands occupied rent free, &c.

Rules have been made under this section styled "The Tithe Rentcharge Recovery Rules, 1891." Sect. 3. Note.

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due from him to the landlord under whom he holds, any amount which shall have been recovered from him under this section in respect of tithe rentcharge or costs, with interest thereon at the rate of four per centum per annum: Provided further, that such occupier shall be entitled, notwithstanding anything in this Act, to recover from such landlord by action at law any such amount which shall have been recovered from him under this section as aforesaid as money paid on the account of such landlord.

Restrictions as to costs.

V.—(1) An application to a county court for an order under this Act may be made on behalf of the tithe owner by his agent, although not a solicitor.

(2) On any application to a county court for an order under this Act, no costs either of a solicitor or of a witness shall be allowed in any case where the amount claimed is paid without further proceedings, nor where notice of intention to apply for time to pay the tithe owner's claim has been given (except in cases where costs could be allowed by the court on a judgment summons), and when notice of opposition has been given within the prescribed time, the costs of a solicitor shall only be allowed for work done subsequent to the notice.

Rating of owner of tithe rentcharge.

VI.—(1) Any rate to which tithe rentcharge is subject shall be assessed on and may be recovered from the owner of the tithe rentcharge, in the like manner and by the like process as on and from any occupying ratepayer; and so much of any Act as authorises any rate on tithe rentcharge to be assessed on or recovered from the occupier of any lands out of which the tithe rentcharge issues is hereby repealed.

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Note. Sub-s. (1).

By the Tithe Act, 1836 (6 & 7 Will. 4, c. 71), s. 69, tithe rentcharge is subject to all rates in like manner as the tithes commuted for such rentcharge had been subject. By sect. 70 of that Act all rates to which the rentcharge was liable were to be assessed upon the occupier of the lands out of which the rentcharge issued; and by the Tithe Act, 1837 (7 Will. 4 and 1 Vict. c. 69), s. 8, such rates might be assessed upon the owner, but recovered from the occupier. These enactments are now impliedly repealed by this sub-section, and also explicitly by the S. L. R. Act, 1891.

The method of recovering rates from an occupying ratepayer is by distress under 43 Eliz. c. 2, s. 2, and the statutes extending and amending the same. (See Archbold's Poor Law, 15th ed., pp. 1049 *et seq.*)

Before this Act poor-rate assessed upon the owner of the tithe rentcharge under the Tithe Act, 1837 (7 Will. 4 and 1 Vict. c. 69), s. 8, was not recoverable by distress from such owner (*Lamplugh* v. *Norton*, 22 Q. B. D. 452; 58 L. J. Q. B. 279; 37 W. R. 422; 53 J. P. 389). By this sub-section they are made recoverable by distress upon the goods of the owner wherever such goods may be situate.

For recovery of arrears due before the Act see *Roberts* v. *Potts*, [1894] 1 Q. B. 213; 63 L. J. Q. B. 381; 69 L. T. 849.

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(2) If the collector of the rate satisfies the county court that he is unable to recover in manner aforesaid any rate assessed on the owner of any tithe rentcharge, the court may, after such service on the owners of the tithe rentcharge, and of the lands out of which the tithe rentcharge issues, as may be prescribed, and after hearing such owners, if they appear and desire to be heard, order the owner of the lands to pay such tithe rentcharge to the collector until the amount of the rate, and any costs allowed by the court, are fully paid; and the order may be executed as if it were an order under this Act for the payment of a sum due on account of the tithe rentcharge.

(3) The court may, if satisfied that the circumstances justify it, make such order as aforesaid in respect of any future rate, either generally or during the time limited by the order.

(4) The expression "rate" in this section means a poor rate, highway rate, general district rate, borough rate, and every other rate assessed on an owner of tithe rentcharge by a public authority for public purposes; and the expression "collector" means the overseer, surveyor of highways, rate-collector, or other person authorized, for the time being, to collect the rate.

Power of appeal.

VII. If any party in any action or matter under this Act shall be dissatisfied with the determination or direction of the judge of the county court in point of law or equity, or upon the admission or rejection of any evidence, the party aggrieved by the judgment, direction, decision, or order of the judge may appeal from the same to the High Court, in such manner and subject to such conditions as may be for the time being provided by the rules of the Supreme Court regulating the procedure on appeals from inferior courts to the High Court.

Remission of tithe rentcharge when exceeding two-thirds annual value of land.

16 & 17 Vict. c. 34.

VIII.—(1) Where a sum is claimed on account of tithe rentcharge issuing out of any lands, and the county court is satisfied that, if the sum claimed is paid, the total amount paid on account of the tithe rentcharge for the period of twelve months next preceding the day on which the sum claimed became payable, will exceed two-thirds of the annual value of the lands as ascertained and entered in the assessment for the purpose of schedule (B.) to the Income Tax Act, 1853, or as certified as herein-after mentioned, the court shall order the remission of so much, whether the whole or part of the sum claimed, as is equal to the excess, and the amount so ordered to be remitted shall not be recoverable; and if the court is satisfied that neither such remission, nor the liability thereto, has been taken into account in estimating the rateable value of the tithe rentcharge, the court may remit such amount of any then current rate assessed on the owner of the

Sect. 6. Note. Sub-s. (2).

The mode of service on the owner is prescribed by rules 39—41 of "The Tithe Rentcharge Recovery Rules, 1891."

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tithe rentcharge as appears to the court to be proportionate to the amount of the remission of tithe rentcharge.

(2) Where the lands out of which any tithe rentcharge issues are assessed for the purposes of the said schedule (B.) together with other lands, the surveyor of taxes for the parish in which the lands are so assessed, on the application of the owner or occupier of the lands, shall divide the annual value in such assessment between the lands out of which any tithe rentcharge issues and the other lands, and give notice of the annual value of the lands as determined on such division to the applicant and to the owner of the tithe rentcharge; and if either of them is dissatisfied with the annual value so determined, he may appeal to the general commissioners of income tax for the division in which the lands are assessed, and those commissioners, after due notice to and hearing the parties or their agents if any of them wishes to be so heard, shall finally determine the proper division of the annual value; and the annual value of lands so determined as aforesaid shall, for the purposes of this section, be the annual value of the lands as ascertained for the purpose of the said schedule (B.).

(3) For the purposes of this section the owner of tithe rentcharge shall have the same right of appeal as the owner of lands, whether under the enactments relating to the said assessment or under this section.

(4) If in any case the annual value of any lands is not ascertained and entered in the assessment for the purpose of the said schedule (B.), the general commissioners of income tax for the division in which the lands are situate shall, on the application of the owner or occupier of the lands, ascertain the annual value of the lands for the purpose of the said schedule (B.), and inform the applicant of the same.

(5) The commissioners of taxes shall on demand and payment of one shilling give a certificate of the amount of the annual value of any lands under this section.

(6) Where it appears from any award that a special apportionment has been made in pursuance of section fifty-eight of the Tithe Act, 1836, whereby tithe rentcharge has been charged specially upon certain closes of land in different proportions, and to the exclusion of certain of them, the court shall not grant a remission under this section unless satisfied that the applicant would have been entitled to such remission if no such special apportionment had been made.

6 & 7 Will. 4. c. 71.

(7) Where two or more tithe rentcharges issue out of the same lands, and a remission of tithe rentcharge has been made by a county court under this section, the amount paid by the owner of the lands on account of tithe rentcharge shall be divided between the owners of such tithe rentcharges in proportion to the amount thereof as fixed by the apportionment or any altered apportionment.

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(8) This section shall not apply to any lands other than those used solely for agricultural or pastoral purposes or for the growth of timber or underwood.

Definitions.

IX.—(1) A reference in this Act to the "owner" of lands or tithe rentcharge,—

(*a.*) if the ownership of the lands or rentcharge is vested in the Queen in right of her crown, means the Commissioners of Woods in substitution for the Queen; and

(*b.*) if the ownership of the lands or rentcharge is vested in the Duke of Cornwall, means the keeper of the records of the Duchy of Cornwall, in substitution for the Duke of Cornwall; and

(*c.*) in any other case, means the same officers or persons as are mentioned in the Tithe Act, 1836.

6 & 7 Will. 4, c. 71, ss. 12, 13.

(2) In this Act, unless the context otherwise requires,—

The expression "tithe rentcharge" means tithe rentcharge issuing out of lands and payable in pursuance of the Tithe Acts, and includes any rentcharge into which a corn rent has, either before or after the passing of this Act, been converted under the Tithe Act, 1860, and which is subject to the like incidents as such tithe rentcharge as aforesaid; but does not include a rentcharge payable under the Extraordinary Tithe Redemption Act, 1886, nor a rentcharge payable under the Tithe Act, 1860, in respect of the tithes on any gated or stinted pasture, nor a sum or rate payable for each head of cattle or stock turned on land subject to common rights or held or enjoyed in common.

23 & 24 Vict. c. 93.

49 & 50 Vict. c. 54.

23 & 24 Vict. c. 93.

The expression "prescribed" means prescribed by rules under this Act.

Commencement and application of Act and saving.

X.—(1) This Act shall extend to every sum on account of tithe rentcharge which first becomes payable on or after the half-yearly day of payment of such tithe rentcharge which occur next after the passing of this Act, whether such sum accrued before or after that day, and shall not extend to sums due on account of tithe rentcharge which were in arrear before the passing of this Act, nor, except so far as relates to the assessment and recovery of rates, shall it extend to tithe rentcharge issuing out of the lands of a railway company.

(2) A sum on account of tithe rentcharge shall not be recoverable under this Act unless proceedings for such recovery have been commenced before the expiration of two years from the date at which it became payable.

(3) Nothing in this Act shall alter the priority of any tithe rentcharge in relation to any other charge or incumbrance upon any lands.

(4) Any enactment in the Tithe Acts or in the Extraordinary Tithe Redemption Act, 1886, directing any expenses,

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rentcharge, or other sums to be recovered as tithe rentcharge, shall, as respects any sum becoming due after the passing of this Act, be construed to refer to the recovery of tithe rentcharge under this Act, save that the owner of the lands shall not be entitled to obtain any remission under this Act.

Repeal.

XI. Section eighty-four of the Tithe Act, 1836, is hereby repealed.

Extent of Act and short titles.

XII.—(1) This Act shall not extend to Scotland or Ireland.

(2) This Act may be cited as the Tithe Act, 1891.

(3) The Act of the session of the sixth and seventh years of the reign of King William the Fourth, chapter seventy-one, intituled "An Act for the Commutation of Tithes in England and Wales," is in this Act referred to and may be cited as the Tithe Act, 1836, and that Act and the enactments amending the same passed before the passing of this Act are in this Act referred to and may be cited as the Tithe Acts.

(4) The Act of the session of the twenty-third and twenty-fourth years of the reign of Her present Majesty, chapter ninety-three, intituled "An Act to amend and further extend the Acts for the Commutation of Tithes in England and Wales," is in this Act referred to and may be cited as the Tithe Act, 1860.

(5) The Act of the session of the sixteenth and seventeenth years of the reign of her present Majesty, chapter thirty-four, intituled "An Act for granting to Her Majesty duties on profits arising from property, professions, trades, and offices," is in this Act referred to and may be cited as the Income Tax Act, 1853.

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SCHEDULE.

*Fees under section 2 of the Tithe Act*, 1891.

Where the sum claimed does not exceed five pounds:

For notice of application to the court . One shilling.
For making the order . . One shilling and sixpence.

Where the sum claimed exceeds five pounds:

| | |
|---|---|
| For notice of application to the court . . | One shilling for every five pounds and fraction above five pounds or any multiple of five pounds of the sum claimed. |
| For making the order . | One shilling and sixpence for every five pounds and fraction above five pounds or any multiple of five pounds of the sum claimed. |

But the total fee in any one case shall not exceed—

For notice of the application . . . Ten shillings.
For making the order . . . Fifteen shillings.

# THE ELECTORAL DISABILITIES REMOVAL ACT, 1891.

## 54 & 55 VICT. CHAP. 11.

An Act to remove certain Disabilities of Persons by reason of absence to be registered as Voters at Parliamentary and Local Elections. [11th May, 1891.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

I. This Act may be cited as the Electoral Disabilities Removal Act, 1891. Short title.

II. A person shall not be disqualified from being registered— Temporary absence of person in performance of duty not to disqualify as elector.

(*a.*) In the Parliamentary register of electors for a county or borough in respect of his inhabitant occupation of a dwelling-house or lodgings or his occupation of any land or tenement; or

(*b.*) In the local government register of electors for a county or borough in respect of his occupation of any house, warehouse, counting-house, shop, building, land, or tenement,

by reason only that during part of the qualifying period not exceeding four months at any one time, he has in the performance of any duty arising from or incidental to any office, service, or employment held or undertaken by him been absent from his dwelling-house or lodgings, or not resided in or within the required distance from such county or borough.

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Sect. 2. — Note.

The expression "local government register of electors" is defined by the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 17.

By sect. 20 (2) of the Local Government Act, 1894 (56 & 57 Vict. c. 73), a person shall not be qualified to be elected or be a guardian for a poor law union unless he is a parochial elector of some parish within the union, or has during the whole of the twelve months preceding the election resided in the union; or, in a borough, is qualified to be elected a councillor for that borough. This Act (54 & 55 Vict. c. 11), although it removes certain disabilities arising from absence on duty, &c., in the case of Parliamentary and parochial electors, does not in any way affect the residential qualification of a candidate for the office of guardian who is not a parochial elector of any parish within the union, nor, in a borough, qualified to be a councillor for that borough. A candidate, therefore, who has only a residential qualification must have resided for the preceding twelve months in the union in the manner defined in *Powell* v. *Guest*, 34 L. J. C. P. 69; 18 C. B. (N. .S) 72.

# THE REFORMATORY AND INDUSTRIAL SCHOOLS ACT, 1891.

54 & 55 VICT. CHAP. 23.

An Act to assist the Managers of Reformatory and Industrial Schools in advantageously launching into useful Careers the Children under their Charge. [3rd July, 1891.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Power to apprentice or dispose of child.

I. If any youthful offender or child detained in or placed out on licence from a certified reformatory or industrial school conducts himself well, the managers of the school may, with his own consent, apprentice him to, or dispose of him in, any trade, calling, or service, or by emigration, notwithstanding that his period of detention has not expired, and such apprenticing or disposition shall be as valid as if the managers were his parents.

Provided that where he is to be disposed of by emigration, and in any case unless he has been detained for twelve months, the consent of the Secretary of State shall also be required for the exercise of any power under this section.

Short title and extent of Act.

II. This Act may be cited as the Reformatory and Industrial Schools Act, 1891, and it shall not apply to Ireland.

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Sect. 1. — Note.

Children may be detained in industrial schools under the provisions of the Industrial Schools Act, 1866 (29 & 30 Vict. c. 118); the Prevention of Crimes Act, 1871 (34 & 35 Vict. c. 112), s. 14; the Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49), ss. 10 (4), 11 (3); the Industrial Schools Acts Amendment Act, 1880 (43 & 44 Vict. c. 15), and the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), ss. 12, 13, 16.

Licence may be granted for child to reside out of an industrial school under the Industrial Schools Act, 1865 (29 & 30 Vict. c. 118), s. 27, and the Industrial Schools Acts Amendment Act, 1894 (57 & 58 Vict. c. 33), s. 1.

Power is given to apprentice or otherwise start in life children in industrial schools by the Industrial Schools Act, 1866 (29 & 30 Vict. c. 118), s. 28, and the Reformatory and Industrial Schools Acts Amendment Act, 1872 (35 & 36 Vict. c. 21), s. 9.

# THE STAMP ACT, 1891.

## 54 & 55 VICT. CHAP. 39.

An Act to consolidate the Enactments granting and relating to the Stamp Duties upon Instruments and certain other Enactments relating to Stamp Duties. [21st July, 1891.]

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*Charge of Duty upon Instruments.*

Charge of duties in schedule.

I. From and after the commencement of this Act the stamp duties to be charged for the use of Her Majesty upon the several instruments specified in the first schedule to this Act shall be the several duties in the said schedule specified, which duties shall be in substitution for the duties therefore chargeable under the enactments repealed by this Act, and shall be subject to the exemptions contained in this Act and in any other Act for the time being in force.

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*Instruments of Apprenticeship.*

Meaning of instrument of apprenticeship.

XXV. Every writing relating to the service or tuition of any apprentice, clerk, or servant placed with any master to learn any profession, trade, or employment (except articles of clerkship to a solicitor, or law agent, or writer to the signet), is to be deemed an instrument of apprenticeship.

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FIRST SCHEDULE.

*Stamp Duties on Instruments.*

* * * * *

APPRENTICESHIP, instrument of ... ... £0 2*s.* 6*d.*

*Exemptions.*

(1) Instrument relating to any poor child apprenticed by or at the sole charge of any parish or township, or by or at the sole charge of any public charity, or pursuant to any Act for the regulation of parish apprentices.

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# ELEMENTARY EDUCATION ACT, 1891.

54 & 55 VICT. CHAP. 56.

An Act to make further provision for assisting Education in Public Elementary Schools in England and Wales.

[5th August, 1891.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Fee grant and conditions thereof.

I.—(1) After the commencement of this Act, there shall be paid, out of monies provided by Parliament, and at such times and in such manner as may be determined by regulations of the Education Department, a grant (in this Act called a fee grant) in aid of the cost of elementary education in England and Wales at the rate of ten shillings a year for each child of the number of children over three and under fifteen years of age in average attendance at any public elementary school in England and Wales (not being an evening school) the managers of which are willing to receive the same, and in which the Education Department are satisfied that the regulations as to fees are in accordance with the conditions in this Act.

(2) If in any case there is a failure to comply with any of the conditions in this Act, and the Education Department are satisfied that there was a reasonable excuse for the failure, the Department may pay the fee grant, but in that case shall, if the amount received from fees has exceeded the amount allowed by this Act, make a deduction from the fee grant equal to that excess.

(3) For the purposes of section nineteen of the Elementary Education Act, 1876, the fee grant paid or payable to a school shall be reckoned as school pence to be met by the grant payable by the Education Department.

Limit of fees in schools receiving fee grant.

II.—(1) In any school receiving the fee grant—

(*a.*) Where the average rate of fees received during the school year ended last before the first day of January one thousand eight hundred and ninety-one was not in excess of ten shillings a year for each child of the number of children in average attendance at the school ; or

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Sect. 1. Note. For definition of "public elementary school" see Elementary Education Act, 1870 (33 & 34 Vict. c. 75), s. 3.

(*b.*) For which an annual Parliamentary grant has not fallen due before the said first day of January;

no fee shall, except as by this Act provided, be charged for children over three and under fifteen years of age.

(2) In any school receiving the fee grant where the said average rate was so in excess, the fees to be charged for children over three and under fifteen years of age shall not, except as by this Act provided, be such as to make the average rate of fees for all such children exceed for any school year the amount of the said excess.

Prohibition of charges in certain schools receiving fee grant.

III. In any school receiving the fee grant, where the average rate charged and received in respect of fees and books, and for other purposes, during the school year ended last before the first day of January one thousand eight hundred and ninety-one, was not in excess of ten shillings a year for each child of the number of children in average attendance at the school, no charge of any kind shall be made for any child over three and under fifteen years of age.

Power to modify limit of fees in certain cases.

IV.—(1) Notwithstanding anything herein-before contained, the Education Department, if they are satisfied that sufficient public school accommodation, without payment of fees, has been provided for a school district, and that the charge of school fees or the increase of school fees for children over three and under fifteen years of age in any particular school receiving the fee grant is required owing to a change of population in the district, or will be for the educational benefit of the district, or any part of the district, may from time to time approve such charge or increase of fees in that school, provided that the ordinary fee for such children shall not exceed sixpence a week.

(2) The Education Department shall report annually to Parliament all cases in which they have sanctioned or refused the imposition or augmentation of fees under this section, with a statement of the amount of fee permitted.

(3) The Education Department may, if they think fit, make it an express condition of such approval that the amount received for any school year from the fees so charged or increased, or a specified portion of that amount, shall be taken in reduction of the fee grant which would otherwise have been payable for that school year, and in that case the fee grant shall be reduced accordingly.

Provision for free school accommodation.

V. If at any time after the expiration of one year from the commencement of this Act it is represented to the Education Department that there is in any school district, or any part of a school district, an insufficient amount of public school accommodation without payment of fees for children over three and under fifteen years of age, for whom such accommodation

Sect. 5.

is desired, and the Education Department are satisfied after inquiry that such is the case, the Department shall direct the deficiency to be supplied in the manner provided by sections nine and ten of the Elementary Education Act, 1870, and every other section enabling them in that behalf, with respect to the supply of public school accommodation; and the expression "public school accommodation" in that Act shall include public school accommodation without payment of fees.

Provided that whenever and so long as any deficiency in such last-mentioned public school accommodation in any district is in course of being supplied with due despatch, no requisition or order shall be issued in that behalf by the Education Department.

Power to contribute from fee grant to common school fund.

VI. The managers of two or more public elementary schools in the same or neighbouring school districts, not being schools provided by a school board, may pay the fee grant, or part thereof, received by each school into a common fund for distribution as may be arranged by them, between or among such schools.

Provided that the fee grant received by each school in the first instance shall alone count as income of such school for the purposes of this Act and of section nineteen of the Elementary Education Act, 1876, and a contribution to a school from any such common fund shall not be reckoned as income of such school from other sources within the said section nineteen.

Grouping of schools.

VII. Where the managers of two or more public elementary schools in the same or neighbouring school districts agree to associate and elect a committee for the schools, any surplus income on the accounts for the school year of any of the associated schools may be paid into a common fund, out of which contributions may be made to any of the other associated schools; but the contributions received by any such school shall not be counted as income from other sources for the purpose of section nineteen of the Elementary Education Act, 1876, so that no addition to the public charge may result from this section taken in conjunction with the said section nineteen. Provided that no board school shall under this section be associated with any public elementary school other than a board school.

Explanation of 33 & 34 Vict. c. 75, s. 17.

VIII. Nothing in section seventeen of the Elementary Education Act, 1870, shall prevent a school board from admitting scholars to any school provided by the board without requiring any fee.

Provision for equality of treatment.

IX. Nothing in this Act shall give any preference or advantage to any school on the ground that it is or is not provided by a school board.

Sect. 10.

X. In this Act the expression "school year" shall mean a year or other period for which an annual Parliamentary grant is for the time being paid or payable under the minutes of the Education Department; [*and the expression "average attendance" shall, for the purposes of the fee grant, mean average attendance calculated in accordance with the minutes in force at the commencement of this Act*].

Meaning of "school year" and "average attendance."

XI. The Acts mentioned in the schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule.

Repeal.

XII. This Act shall come into operation on the first day of September one thousand eight hundred and ninety-one.

Commencement of Act.

XIII.—(1) This Act may be cited as the Elementary Education Act, 1891, and shall be construed as one with the Elementary Education Acts, 1870 to 1890.

Short title and construction.

(2) The Elementary Education Acts, 1870 to 1890, and this Act, may be cited collectively as the Elementary Education Acts, 1870 to 1891.

SCHEDULE.

*Enactments Repealed.*

| Session and Chapter. | Short Title. | Extent of Repeal. |
|---|---|---|
| 33 & 34 Vict. c. 75. | The Elementary Education Act, 1870. | Section twenty-six. |
| 39 & 40 Vict. c. 79. | The Elementary Education Act, 1876. | Section eighteen. |

# THE LUNACY ACT, 1891.

54 & 55 VICT. CHAP. 65.

An Act to amend the Lunacy Act, 1890. [5th August, 1891.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:

I. This Act may be cited as the Lunacy Act, 1891, and this Act shall be construed as one with the Lunacy Act, 1890 (in

Short title. 53 & 54 Vict. c. 5.

The words printed in italics are repealed by the Elementary Education Act, 1900 (63 & 64 Vict. c. 53), and replaced by the definition of "average attendance" contained in sect. 1 of that Act.

Sect. 10 Note.

Sect. 1.

this Act called the principal Act), and this Act and the principal Act may be cited together as the Lunacy Acts, 1890 and 1891.

Provisions as to relieving officers.

II.—(1) A constable, relieving officer, or overseer whose duty it is, under the principal Act, to convey a lunatic to or from an institution for lunatics, may make proper arrangements for the performance of the duty by some other person or persons.

(2) Where in a union there are two or more relieving officers, and the guardians, with the sanction of the Local Government Board, direct one relieving officer to discharge throughout the union the duties of a relieving officer in respect of lunatics, every other relieving officer in the union shall inform the officer so directed of any case of a lunatic, with which it would otherwise devolve upon such other relieving officer to deal, and it shall be the duty of the relieving officer receiving such information to deal with the case, and the other relieving officer shall be discharged from any further duty in the matter.

Classification of lunatics received under ss. 13, 16, of principal Act.

III. A lunatic sent to an institution for lunatics under section thirteen or sixteen of the principal Act shall be classified as a pauper, until it is ascertained that he is entitled to be classified as a private patient.

Amendments of 53 & 54 Vict. c. 5. Section 24. 30 & 31 Vict. c. 106.

IV.—(1) Every pauper suffering from mental disease in a workhouse at the commencement of the principal Act, as to whom a report had before the commencement of the principal Act been made under section twenty-two of the Poor Law Amendment Act, 1867, may be detained in the workhouse against his will without an order under section twenty-four of the principal Act.

30 Vict. c. 6.

(2) The medical superintendent of an asylum provided under the Metropolitan Poor Act, 1867, shall not be required in any certificate under sub-section one of section twenty-four of the principal Act, or under this Act, to certify to the effect in sub-clause (c) of that sub-section mentioned, and upon the transfer from a workhouse to an asylum provided under the Metropolitan Poor Act, 1867, of a lunatic, with regard to whom a certificate or order under the said section twenty-four made while he was in the workhouse is in force, no further certificate or order shall be required for the detention of the lunatic in the asylum.

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Sect. 2.

Note.

Sub-s. (1).

It is made the duty of constables, &c., to convey lunatics under orders of justices, by sects. 13 -16 of the Lunacy Act, 1890 (53 & 54 Vict. c. 5), and otherwise by sects. 60, 66, and 80 of that Act.

Sect. 5. Medical certificates.

V. There shall be attached to every order made by a justice under section twenty-four of the principal Act the medical certificates on which such order is founded.

Section 27.

VI. Where a workhouse is situate in a county which does not include the union to which the workhouse belongs, a summary reception order made by a justice of the county in which the workhouse is situate may order a lunatic in the workhouse to be received in any asylum in which pauper lunatics chargeable to the union to which the workhouse belongs may legally be received.

Section 38 (4).

VII. Sub-section four of section thirty-eight of the principal Act is hereby repealed, and the following sub-section is substituted therefor:—

(4) A reception order shall remain in force for a year after the date by this Act or by an order of the commissioners appointed for it to expire, and thereafter for two years, and thereafter for three years, and after the end of such periods of one, two, and three years for successive periods of five years, if not more than one month nor less than seven days before the expiration of the period at the end of which, as fixed by this Act or by an order of the commissioners under sub-section two, the order would expire, and of each subsequent period of one, two, three, and five years respectively, a special report of the medical officer of the institution or of the medical attendant of the single patient as to the mental and bodily condition of the patient with a certificate under his hand certifying that the patient is still of unsound mind and a proper person to be detained under care and treatment is sent to the commissioners.

Section 39.

VIII. Section thirty-nine of the principal Act shall not apply to lunatics received under a removal order or to lunatics so found by inquisition.

Section 55.

IX.—(1) In sub-section three (*a*) of section fifty-five of the principal Act the words "or to travel in England" shall be inserted after the word "place."

(2) In sub-section six of section fifty-five of the principal Act, for the words "licensed by visitors" shall be substituted the words "licensed by justices," and for the words "the commissioners or visitors" shall be substituted the words "such commissioner or such two visitors."

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Sect. 6. Note.

Under sect. 27 of the Lunacy Act, 1890 (53 & 54 Vict. c. 5), when a workhouse and the union to which it belonged were not in the same county, lunatics were sent from such workhouse to the asylum of the county in which the workhouse was situate, instead of the county in which the union to which the workhouse belonged was situate. This section remedies the injustice thus created.

Sect. 10.

Section 56 (3).

X. In sub-section three of section fifty-six of the principal Act the words "or permit the patient to be absent upon trial for such period as may be thought fit" shall be added after the word "health" at the end of the sub-section.

Section 61 (1).

XI. In sub-section one of section sixty-one of the principal Act the words "to the workhouse of the union to which the lunatic is chargeable, or if the lunatic is chargeable to a county or borough, to the workhouse of the union from which he was sent to the hospital or licensed house" shall be inserted after the words "of the lunatic."

Hospitals may alter regulations.

XII. The managing committee of every hospital may, with the approval of a Secretary of State, alter the regulations of the hospital.

Boroughs annexed to counties under s. 246 to contribute to expense of asylum.

XIII.—(1) Where under section two hundred and forty-six of the principal Act, a borough ceases to be a local authority under that Act, the borough shall for all purposes of that Act be annexed to and treated as part of the county in which the borough is situate, and if or so far as the borough has not contributed towards the expense of providing the asylum of the county, a sum to be paid by the borough towards the expenses already incurred in providing the asylum shall be fixed by agreement between the councils of the county and borough, or in default of agreement by an arbitrator appointed by the parties, or, if the parties cannot agree upon an arbitrator, by an arbitrator appointed by the Local Government Board. In fixing the sum to be paid by the borough, the borough shall be credited with any sums already contributed by the borough for lunacy purposes in excess of its legal liability; and the arbitrator shall take into consideration the amounts that may have been paid by the borough for the reception or maintenance, in the asylum of the county, of the lunatics of the borough.

51 & 52 Vict. c. 41.

(2) Where a borough had before the passing of this Act, by virtue of section eighty-six of the Local Government Act, 1888, and the determination of any contract, become liable to contribute to the county rate of the county in respect of a lunatic asylum, this section shall apply to such borough as if it had immediately after the passing of this Act ceased under section two hundred and forty-six of the principal Act to be a local authority.

Power to refer questions as to asylums to the Court or to arbitration.

XIV. Any question relating to lunatic asylums or the maintenance of lunatics arising between any local authorities under the principal Act and any boroughs not being local authorities under that Act, and any visiting committees or any two or more of such parties respectively, may be referred to an arbitrator appointed by the parties, or, if the parties cannot agree upon an arbitrator, by the Local Government Board.

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XV. The provisions of sub-sections five, six, and seven of section sixty-two of the Local Government Act, 1888, shall apply to every sum by virtue of this Act agreed to be paid or awarded by an arbitrator as if such sum had been agreed to be paid or awarded under section sixty-two of the Local Government Act, 1888.

Sect. 62 of 51 & 52 Vict. c. 41, applied.

XVI. In sub-section two of section two hundred and fifty-four of the principal Act, there shall be added after the word "contracts" the words "for the purchase of lands and buildings and for the erection, restoration, and enlargement of buildings."

Amendment of s. 254 of 53 & 54 Vict. c. 5.

XVII. Where a contract between the council of a borough and the subscribers to a hospital for the reception of pauper lunatics into the hospital was subsisting on the twenty-sixth day of August one thousand eight hundred and eighty-nine, such contract, unless determined by the parties or one of them, shall be deemed to have continued in force since that date, and may be renewed subject to the same conditions and with the same consequences as if the contract had been entered into by a visiting committee on behalf of the borough.

Contracts by town councils and the subscribers to a hospital.

XVIII. The provisions of the Local Government Act, 1888, relating to the accounts of county councils and their officers, and to the audit of such accounts, shall apply to the accounts of every asylum belonging wholly or in part to a county council and of the visiting committee and officers thereof.

Accounts of county asylums.

XIX.—(1) Where a lunatic in a hospital or licensed house becomes a pauper, the manager of the hospital or house may, after having given notice to the authority liable for the maintenance of the lunatic of his intention so to do, apply to a justice of the peace having jurisdiction in the place where the hospital or house is situate for an order for the removal of the lunatic, and such justice may, if he thinks fit, make an order for the removal of the lunatic to an institution for lunatics to which pauper lunatics for whose maintenance the authority is liable may legally be sent and for the reception of the lunatic therein, and such institution shall be named in the order, and the manager of the hospital or house shall forthwith cause the lunatic to be removed to the institution named in the order. In the case of such removal the original reception order shall remain in force, and shall authorize the classification of the lunatic as a pauper lunatic in the institution to which he is removed.

Removal of lunatic becoming a pauper.

(2) The costs of obtaining an order under this section and of the removal of the lunatic shall be repaid to the manager who obtains the order by the authority liable for the maintenance of the lunatic, and any justice having jurisdiction in the

Sect. 19.

place where the hospital or house from which the lunatic was removed is situate shall have power to fix the amount of such costs and to order such authority to repay the same. The provisions of section three hundred and fourteen of the principal Act shall apply to every such order for the repayment of costs.

Notice of reception of boarders into licensed houses and hospitals.

XX. Where a boarder is received into a licensed house not within the immediate jurisdiction of the Commissioners in Lunacy, or into a registered hospital, notice of his reception shall be given to the Commissioners in Lunacy within twenty-four hours of his reception by the manager of the licensed house or hospital into which such boarder has been received.

If any manager fails to comply with the provisions of this section he shall, for each day or part of a day during which the default continues, be liable to a penalty not exceeding five pounds.

If the commissioners after inquiry are of opinion that the mental state of any boarder received into a licensed house or hospital is such as to render him unfit to remain as a boarder, they may order the manager of the licensed house or hospital either to remove such boarder or to take steps to obtain an order for his reception as a patient into the licensed house or hospital.

Any manager failing to comply with an order of the Commissioners in Lunacy made pursuant to this section shall, for each day during which the default continues, be liable to a penalty not exceeding five pounds.

Complaints as to control of patients.

XXI. If complaints are made by persons resident in the neighbourhood of any hospital that the patients are allowed to go outside the hospital without a sufficient number of officers to control them, or that the patients are allowed to wander at large without any control, the commissioners may, if they are satisfied that there are *primâ facie* grounds for such complaints, inquire into the same, and may make such order in relation thereto as the commissioners think just, and the superintendent of any hospital disobeying any such order shall be guilty of a misdemeanour.

Payment of expenses as to lunatics becoming paupers.

XXII. The provisions of the principal Act for the payment of expenses in relation to pauper lunatics shall be applicable with respect to lunatics in institutions for lunatics who become paupers.

Form of petition amended.

XXIII. In Form 1 in the second schedule to the principal Act there shall be substituted for the word "Dated" the words "Date of presentation of the petition."

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Note.

For these provisions see sects. 283—314 of the Lunacy Act, 1890 (53 & 54 Vict. c. 5).

Sect. 24.

Amendment as to judicial authority under 53 & 54 Vict. c. 5.

XXIV.—(1) A justice of the peace specially appointed under section ten of the principal Act may exercise the powers of the judicial authority under that Act, notwithstanding that he may not have jurisdiction in the place where the lunatic or alleged lunatic is.

(2) A judicial authority may, if he considers it expedient, transfer a petition for a reception order presented to him to any other judicial authority who is willing to receive the same, whether such other judicial authority has or has not jurisdiction in the place where the lunatic is, and such other judicial authority shall have the same powers as the judicial authority to whom the petition was presented would have had.

(3) A reception order made after the passing of this Act shall not be invalid on the ground only that the justice of the peace who signed the order shall appear to have not been duly appointed under section ten of the principal Act, if the order is within fourteen days after its date approved and signed by a judicial authority.

(4) The appointment at any time before or after the passing of this Act by the justices of a county or quarter sessions borough of justices to exercise the powers of the judicial authority under the principal Act shall not be invalid on the ground only that the appointment includes all the justices of the county or borough.

(5) Every justice appointed under section ten of the Lunacy Acts Amendment Act, 1889, shall be deemed to have had power to exercise the jurisdiction conferred upon the judicial authority under the principal Act, and the jurisdiction of such justices and of any justices appointed or hereafter to be appointed under the principal Act shall be deemed to have continued and shall continue until a fresh appointment is made.

Power to confer powers of justice of the peace on *member* of board of guardians.

XXV. If for the due administration of the Lunacy Acts, 1890 and 1891, in any union it appears to the Lord Chancellor desirable, he may by writing under his hand empower the chairman of the board of guardians to sign orders for the reception of persons as pauper lunatics in institutions for lunatics, and every order so signed shall have effect as if made by a justice of the peace under the principal Act.

Amendments in procedure upon inquisitions.

Sect. 24.

Note.

Sub-s. (2).

Sub-s. (4).

Sect. 25.

Note.

XXVI.—(1) The provisions of section ninety-four, sub-section two of the principal Act as to the trial of issues in the High Court shall extend to all inquisitions, and the masters may, for the purpose of inquisitions held before them, exercise the

See sect. 9 (3) and sect. 338 (4) of the Lunacy Act, 1890 (53 & 54 Vict. c. 5).

This sub-section is in amendment of sect. 10 (1) of the Lunacy Act, 1890 (53 & 54 Vict. c. 5).

The word "member" in the side note in the Queen's Printer's copy of the Act is obviously printed in error for "chairman."

Sect. 26.

powers by that sub-section conferred upon the judge who tries the issue.

(2) The masters may make orders for the attendance of an alleged lunatic at such time and place as the order directs, for examination by the masters or a medical practitioner, and such order may be enforced in the same way as an order of a judge of the High Court.

Procedure as to Chancery lunatics.

XXVII.—(1) Subject to rules in lunacy the jurisdiction of the judge in lunacy as regards administration and management may be exercised by the masters, and every order of a master in that behalf shall take effect unless annulled or varied by the judge in lunacy.

(2) The power to make rules under section three hundred and thirty-eight, sub-section (2), of the principal Act shall extend to all applications under the principal Act and this Act, and also to applications in the Chancery Division of the High Court in cases where such applications are also made under the principal Act.

(3) The power conferred by section one hundred and forty-eight of the principal Act to make rules fixing percentage and fees shall be deemed to extend to all proceedings under the principal Act or this Act, whether relating to lunatics so found by inquisition or to any other person in relation to whom or to whose property an order under the said Acts has been or may be made. Provided that in the case of lunatics under the protection of the judge in lunacy by virtue of the transmission of the record of an inquisition from Ireland and its entry of record in the High Court, and in the case of persons residing out of England and declared lunatic according to the laws of their place of residence, no percentage shall be levied except upon income arising from property within the jurisdiction of the judge in lunacy and administered under his direction.

(4) The provisions of section one hundred and sixteen, sub-section two, of the principal Act shall apply to the persons named in sub-section one (*d.*) of the same section though not lunatics.

Definition of seised and possessed.

XXVIII. In the principal Act, the word "seised" shall include any vested estate for life or of a greater description, and shall extend to estates at law and in equity in possession

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Sect. 27. Note. Sub-s. (1).

A master has jurisdiction to make a vesting order under sects. 133—143 of the Lunacy Act, 1890 (53 & 54 Vict. c. 5). *Re Browne* [1894], 3 Ch. 412, 63 L. J. Ch. 729.

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Sect. 28. Note.

These words occur in sect. 135 (1) of the Lunacy Act, 1890 (53 & 54 Vict. c. 5).

or in futurity in any lands; and the word "possessed" shall include any vested estate less than a life estate at law or in equity in possession or in expectancy in any lands. Sect. 28.

XXIX. The enactments in the schedule are hereby repealed. Repeal.

THE SCHEDULE.

*Enactments Repealed.* Section 29.

| Session and Chapter. | Short Title. | Extent of Repeal. |
|---|---|---|
| 53 & 54 Vict. c. 5 | The Lunacy Act, 1890 | Section nine, sub-section one, from "having" to the end of the sub-section.<br>Section ten, in sub-section one the words "within the county and borough respectively" and in sub-section four the words "within the same" occurring twice.<br>Section thirteen, sub-section two, from "within" to "jurisdiction."<br>Section twenty-four, sub-section six, from "that a pauper" to "asylum" where that word next occurs.<br>Section sixty-two.<br>Section ninety-nine the words "with a jury."<br>Section one hundred and forty-nine.<br>Section two hundred and forty-six, from "subject" to "an asylum."<br>Section two hundred and seventy-nine.<br>Section three hundred and thirty-eight, sub-section two, the words "in lunacy."<br>The second schedule, form 13.<br>The fourth schedule, the references to "Dover" and "Maidstone" repealed as from the commencement of the Lunacy Act, 1890. |

# PUBLIC HEALTH (LONDON) ACT, 1891.

54 & 55 VICT. CHAP. 76.

An Act to consolidate and amend the Laws relating to Public Health in London. [5th August, 1891.]

[In certain extra-parochial places in London, viz., the Inns of Court, Charterhouse, and the close of Westminster Abbey, the authority for the execution of the whole of this Act is the board of guardians or overseers of the poor of such places, or of the parishes in which such places are situate, and the expenses of such authority in executing the Act are payable out of the poor rates (sect. 99 (1) (*e*). As, however, these duties are far removed from the general administration of the poor law, only so much of the Act is printed here as relates to the duty of relieving officers to see that persons dying of infectious diseases are speedily buried, or has a bearing upon the powers and duties of the metropolitan asylum managers and the application of the metropolitan common poor fund towards the expenses of sanitary authorities incurred in pursuance of epidemic regulations.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

* * * * *

*Infectious Diseases.—Notification*

Notification of infectious disease.

LV.—(1) Where an inmate of any house within the district of a sanitary authority is suffering from an infectious disease to which this section applies, the following provisions shall have effect, that is to say:—

(*a.*) The head of the family to which such inmate (in this section referred to as the patient) belongs, and in his default the nearest relatives of the patient present in the house or being in attendance on the patient, and in default of such relatives, every person in charge of or in attendance on the patient, and in default of any such person the master of the house, shall, as soon as he becomes aware that the patient is suffering from an infectious disease to which this section applies, send notice thereof to the medical officer of health of the district:

(*b.*) Every medical practitioner attending on or called in to visit the patient shall forthwith, on becoming aware that the patient is suffering from an infectious disease

Sect. 55. Note. Sub-s. (1).

The metropolitan asylum district is formed by order of the Poor Law Board under the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), s. 6.

"Sanitary authority" is defined in sect. 99, *infra*.

to which this section applies, send to the medical officer of health of the district a certificate stating the full name and the age and sex of the patient, the full postal address of the house, and the infectious disease from which in the opinion of such medical practitioner the patient is suffering, and stating also whether the case occurs in the private practice of such practitioner or in his practice as a medical officer of any public body or institution, and where the certificate refers to the inmate of a hospital it shall specify the place from which and the date at which the inmate was brought to the hospital, and shall be sent to the medical officer of health of the district in which the said place is situate :

Provided that, in the case of a hospital of the metropolitan asylum managers, a notice or certificate need not be sent respecting any inmate with respect to whom a copy of the certificate has been previously forwarded by the medical officer of health of the district to the said managers.

(2) Every person required by this section to send a notice or certificate, who fails forthwith to send the same, shall be liable to a fine not exceeding forty shillings: Provided that if a person is not required to send notice in the first instance, but only in default of some other person, he shall not be liable to any fine if he satisfies the court that he had reasonable cause to suppose that the notice had been duly sent.

(3) The Local Government Board may prescribe forms for the purpose of certificates to be sent in pursuance of this section, and if such forms are so prescribed, they shall be used in all cases to which they apply. The sanitary authority shall gratuitously supply forms of certificate to any medical practitioner residing or practising in their district who applies for the same, and shall pay to every medical practitioner for each certificate duly sent by him in accordance with this section a fee of two shillings and sixpence if the case occurs in his private practice, and of one shilling if the case occurs in his practice as medical officer of any public body or institution.

(4) Where a medical officer of health receives a certificate under this section relating to a patient within the metropolitan asylum district, he shall, within twelve hours after such receipt, send a copy thereof to the metropolitan asylum managers, and to the head teacher of the school attended by the patient (if a child), or by any child who is an inmate of the same house as the patient. The metropolitan asylum managers shall repay to the sanitary authority the fees paid by that authority in respect of the certificates whereof copies have been so sent to the managers. The managers shall send weekly to the county council, and to every medical officer of health, such return of the infectious diseases of which they receive certificates in pursuance of this section as the county council require.

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(5) Where in any district of a sanitary authority there are two or more medical officers of health of that authority, a certificate under this section shall be sent to such one of those officers as has charge of the area in which is the patient referred to in the certificate, or to such other of those officers as the sanitary authority may direct.

(6) A notice or certificate to be sent to a medical officer in pursuance of this section may be sent to such officer at his office or residence.

(7) This section shall apply to every building, vessel, tent, van, shed, or similar structure used for human habitation, in like manner as nearly as may be as if it were a house; but nothing in this section shall extend to any house, building, vessel, tent, van, shed, or similar structure belonging to Her Majesty the Queen, or to any inmate thereof, nor to any vessel belonging to any foreign government.

(8) In this section the expression "infectious disease to which this section applies" means any of the following diseases, namely, small-pox, cholera, diphtheria, membranous croup, erysipelas, the disease known as scarlatina or scarlet fever, and the fevers known by any of the following names, typhus, typhoid, enteric, relapsing, continued, or puerperal, and includes as respects any particular district any infectious disease to which this section has been applied by the sanitary authority of the district in manner provided by this Act.

Power of sanitary authority to add to number of infectious diseases of which notification is required.

LVI.—(1) The sanitary authority of any district may, by resolution passed at a meeting of that authority of which such notice has been given as in this section mentioned, order that the foregoing section with respect to the notification of infectious disease shall apply in their district to any infectious disease other than a disease specifically mentioned in that section; any such order may be permanent or temporary, and, if temporary, the period during which it is to continue in force shall be specified therein, and any such order may be revoked or varied by the sanitary authority which made the same.

(2) Fourteen clear days at least before the meeting at which such resolution is proposed special notice of the meeting, and of the intention to propose the making of such order, shall be given to every member of the sanitary authority, and the notice shall be deemed to have been duly given to a member if it is given in the mode in which notices to attend meetings of the sanitary authority are usually given.

(3) An order under this section and the revocation and variation of any such order shall not be of any validity

until it has been approved by the Local Government Board, and when it is so approved the sanitary authority shall give public notice thereof by advertisement in a local newspaper, and by handbills, and otherwise in such manner as the sanitary authority think sufficient for giving information to all persons interested; they shall also send a copy thereof to each legally qualified medical practitioner whom, after due inquiry, they ascertain to be residing or practising in their district.

(4) The said order shall come into operation at such date not earlier than one week after the publication of the first advertisement of the approved order as the sanitary authority may fix, and upon the order coming into operation, and during the continuance thereof, an infectious disease mentioned in the order shall, within the district of the authority, be an infectious disease to which the foregoing section with respect to the notification of infectious disease applies

(5) In the case of emergency three clear days' notice of the meeting and of the intention to propose the making of the order shall be sufficient, and the resolution shall declare the cause of the emergency and shall be for a temporary order, and a copy thereof shall be forthwith sent to the Local Government Board and advertised, and the order shall come into operation at the expiration of one week from the date of the advertisement: but unless approved by the Local Government Board shall cease to be in force at the expiration of one month after it is passed, or any earlier date fixed by the Local Government Board; if it is approved by the Local Government Board that approval shall be conclusive evidence that the case was one of emergency.

(6) The county council shall, as respects London, have the same power of extending the foregoing section by order to any infectious disease, and the same power of revoking and varying the order, as a sanitary authority have under this section as respects their district; and the foregoing section when so extended by the county council shall be construed as if it had been applied under this section as respects every district in London by the sanitary authority thereof.

Non-disqualification of medical officer by receipt of fees.

LVII.—(1) A payment made to any medical practitioner in pursuance of the provisions of this Act with respect to the notification of infectious disease shall not disqualify that practitioner for serving as member of the county council, or of a sanitary authority, or as guardian of a poor law union, or in any other public office.

(2) Where a medical practitioner attending on a patient is himself the medical officer of health of the district, he shall be entitled to the same fee as if he were not such medical officer.

Application of special provisions to certain infectious diseases.

LVIII. The following provisions of this Act relating to dangerous infectious diseases shall apply to the infectious diseases specifically mentioned in the foregoing enactment of this Act relating to the notification of infectious disease, and all or any of such provisions may be applied by order to any other infectious disease in the same manner as that enactment may be applied to such disease, subject to the same power of revoking and varying the order, and every such infectious disease is in this Act referred to as a dangerous infectious disease.

Provision of means for disinfecting of bedding, &c.

LIX.—(1) Every sanitary authority shall provide, either within or without their district, proper premises with all necessary apparatus and attendance for the destruction and for the disinfection, and carriages or vessels for the removal, of articles (whether bedding, clothing, or other) which have become infected by any dangerous infectious disease, and may provide the same for the destruction, disinfection, and removal of such articles when infected by any other disease ; and shall cause any such articles brought for destruction or disinfection, whether alleged to be infected by any dangerous infectious disease or by any other disease, to be destroyed or to be disinfected and returned, and may remove, and may destroy, or disinfect and return, such articles free of charge.

(2) Any sanitary authorities may execute their duty under this section by combining for the purposes thereof, or by contracting for the use by one of the contracting authorities of any premises provided for the purpose of this section by another of such contracting authorities, and may so combine or contract upon such terms as may be agreed upon.

Cleansing and disinfecting of premises, &c.

LX.—(1) Where the medical officer of health of any sanitary authority, or any other legally qualified medical practitioner, certifies that the cleansing and disinfecting of any house, or part thereof, and of any articles therein likely to retain infection, or the destruction of such articles, would tend to prevent or check any dangerous infectious disease, the sanitary authority shall serve notice on the master, or where the house or part is unoccupied on the owner, of such house or part that the same and any such articles therein will be cleansed and disinfected or (as regards the articles) destroyed, by the sanitary authority, unless he informs the sanitary authority within twenty-four hours from the receipt of the notice that he will cleanse and disinfect the house or part and any such articles or destroy such articles to the satisfaction of the medical officer of health, or of any other legally qualified medical practitioner, within a time fixed in the notice.

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(2) If either—

(*a.*) Within twenty-four hours from the receipt of the notice, the person on whom the notice is served does not inform the sanitary authority as aforesaid, or

(*b.*) Having so informed the sanitary authority he fails to have the house or part thereof and any such articles disinfected or such articles destroyed as aforesaid within the time fixed in the notice, or

(*c.*) The master or owner without such notice gives his consent,

the house or part and articles shall be cleansed and disinfected or such articles destroyed by the officers and at the cost of the sanitary authority under the superintendence of the medical officer of health.

(3) For the purpose of carrying into effect this section the sanitary authority may enter by day on any premises.

(4) The sanitary authority shall provide, free of charge, temporary shelter or house accommodation, with any necessary attendants, for the members of any family in which any dangerous infectious disease has appeared, who have been compelled to leave their dwellings, for the purpose of enabling such dwellings to be disinfected by the sanitary authority.

(5) When the sanitary authority have disinfected any house, part of a house, or article, under the provisions of this section, they shall compensate the master or owner of such house, or part of a house, or the owner of such article, for any unnecessary damage thereby caused to such house, part of a house, or article; and when the authority destroy any article under this section they shall compensate the owner thereof; and the amount of any such compensation shall be recoverable in a summary manner.

Disinfection of bedding, &c.

LXI.—(1) Any sanitary authority may serve a notice on the owner of any bedding, clothing, or other articles which have been exposed to the infection of any dangerous infectious disease, requiring the delivery thereof to an officer of the sanitary authority for removal for the purpose of destruction or disinfection; and if any person fails to comply with such notice he shall, on the information of the sanitary authority, be liable to a fine not exceeding ten pounds.

(2) The bedding, clothing, and articles if so disinfected by the sanitary authority shall be brought back and delivered to the owner free of charge, and if any of them suffer any unnecessary damage the authority shall compensate the owner for the same, and the authority shall also compensate the owner for

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Note.

Sub-s. (1).

For authentication and service of notices see sects. 127, 128, *infra*.

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any articles destroyed; and the amount of compensation shall be recoverable in a summary manner.

Infectious rubbish thrown into ash-pits, &c., to be disinfected.

LXII.—(1) If a person knowingly casts, or causes or permits to be cast, into any ash-pit any rubbish infected by a dangerous infectious disease without previous disinfection, he shall be liable to a fine not exceeding five pounds, and, if the offence continues, to a further fine not exceeding forty shillings for every day during which the offence so continues after the notice hereafter in this section mentioned.

(2) The sanitary authority shall cause their officers to serve notice of the provisions of this section on the master of any house or part of a house in which they are aware that there is a person suffering from a dangerous infectious disease, and on the request of such master shall provide for the removal and disinfection or destruction of the aforesaid rubbish.

Penalty on letting houses in which infected persons have been lodging.

LXIII.—(1) Any person who knowingly lets for hire any house, or part of a house, in which any person has been suffering from any dangerous infectious disease, without having such house or part of a house, and all articles therein liable to retain infection, disinfected to the satisfaction of a legally qualified medical practitioner, as testified by a certificate signed by him, or (as regards the articles) destroyed, shall be liable to a fine not exceeding twenty pounds.

(2) For the purposes of this section, the keeper of an inn shall be deemed to let for hire part of a house to any person admitted as a guest into such inn.

Penalty on persons letting houses making false statements as to infectious disease.

LXIV. Any person letting for hire, or showing for the purpose of letting for hire, any house or part of a house, who, on being questioned by any person negotiating for the hire, as to the fact of there being, or within six weeks previously having been, therein any person suffering from any dangerous infectious disease, knowingly makes a false answer to such question, shall be liable, at the discretion of the court, to a fine not exceeding twenty pounds, or to imprisonment, with or without hard labour, for a period not exceeding one month.

Penalty on ceasing to occupy house without disinfection or notice to owner, or making false answer.

LXV.—(1) Where a person ceases to occupy any house, or part of a house, in which any person has within six weeks previously been suffering from any dangerous infectious disease, and either—

(*a.*) Fails to have such house, or part of a house, and all articles therein liable to retain infection, disinfected to the satisfaction of a legally qualified medical practitioner, as testified by a certificate signed by him, or such articles destroyed, or

(*b.*) Fails to give to the owner or master of such house, or

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part of a house, notice of the previous existence of such disease, or

(c.) On being questioned by the owner or master of, or by any person negotiating for the hire of, such house or part of a house, as to the fact of there having within six weeks previously been therein any person suffering from any dangerous infectious disease, knowingly makes a false answer to such question,

he shall be liable to a fine not exceeding ten pounds.

(2) The sanitary authority shall cause their officers to serve notice of the provisions of this section on the master of any house or part of a house in which they are aware that there is a person suffering from a dangerous infectious disease.

Removal to hospital of infected persons without proper lodging.

LXVI.—(1) A person suffering from any dangerous infectious disease, who is without proper lodging or accommodation, or is lodged in a tent or van, or is on board a vessel, may, on a certificate signed by a legally qualified medical practitioner, and with the consent of the superintending body of the hospital to which he is to be removed, be removed by order of a justice, and at the cost of the sanitary authority of the district where such person is found, to any hospital in or within a convenient distance of London.

(2) The order may be addressed to such constable or officer of the sanitary authority as the justice making the same thinks expedient; and if any person wilfully disobeys or obstructs the execution of such order he shall be liable to a fine not exceeding ten pounds.

(3) Any sanitary authority may make byelaws for removing to any hospital to which that authority are entitled to remove patients, and for keeping in that hospital so long as may be necessary any persons brought within their district by any vessel who are infected with a dangerous infectious disease.

Detention of infected person without proper lodging in hospital.

LXVII.—(1) A justice, on being satisfied that a person suffering from any dangerous infectious disease is in a hospital, and would not on leaving the hospital be provided with lodging or accommodation in which proper precautions could be taken to prevent the spreading of the disease by such person, may direct such person to be detained in the hospital at the cost of the metropolitan asylum managers during the time limited by

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Sect. 66. Note.

A sanitary authority are entitled to remove patients to any hospital provided by them, or for the use of which they have contracted under sect. 75, *infra*.

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Sect. 67. Note. Sub-s. (1).

The maintenance of the patient by the metropolitan asylum managers is not to be deemed parochial relief (sect. 80 (4), *infra*). The expenses of the managers are provided for by sect. 104, *infra*.

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the justice. Any justice may enlarge the time as often as appears to him necessary for preventing the spread of the disease.

(2) The direction may be carried into execution by any officer of any sanitary authority, or of the metropolitan asylum managers, or by any inspector of police, or any officer of the hospital.

Penalty on exposure of infected persons and things.

LXVIII.—(1) If any person—

(*a.*) While suffering from any dangerous infectious disease wilfully exposes himself without proper precautions against spreading the said disease in any street, public place, shop, or inn; or

(*b.*) Being in charge of any person so suffering, so exposes such sufferer; or

(*c.*) Gives, lends, sells, transmits, removes, or exposes, without previous disinfection, any bedding, clothing, or other articles which have been exposed to infection from any such disease;

he shall be liable to a fine not exceeding five pounds.

(2) Provided that proceedings under this section shall not be taken against persons transmitting with proper precautions any bedding, clothing, or other articles for the purpose of having the same disinfected.

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*Hospitals and Ambulances.*

Power of sanitary authority to provide hospitals.

LXXV.—(1) Any sanitary authority may provide for the use of the inhabitants of their district hospitals temporary or permanent, and for that purpose may—

(*a.*) Themselves build such hospitals, or

(*b.*) Contract for the use of any hospital or part of a hospital, or

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Sect. 68. Note.

It is an indictable offence at common law to expose unnecessarily in public places persons suffering from highly infectious diseases (*Rex* v. *Vantandillo*, 4 M. & S. 73; *Rex* v. *Burnett*, 4 M. & S. 272).

A medical man attending a patient is not necessarily "in charge of" the patient (*Tunbridge Wells Local Board* v. *Bishopp*, 2 C. P. D. 187).

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Sect. 75. Note.

As this section does not create a duty upon the sanitary authority to provide hospitals, it will be no defence to an action against a sanitary authority for erecting a hospital for infectious diseases so as to be a nuisance to other persons (see *Metropolitan Asylum Managers* v. *Hill*, 6 App. Cas. 193; 50 L. J. Q. B. 353; 44 L. T. (N.S.) 653; 27 W. R. 617; 45 J. P. 664; *Bendelow* v. *Wortley Union*, 57 L. J. Ch. 762; 57 L. T. (N. S.) 849; 36 W. R. 168).

(c.) Enter into any agreement with any person having the management of any hospital for the reception of the sick inhabitants of their district, on payment of such annual or other sum as may be agreed on. Sect. 75.

(2) Two or more sanitary authorities may combine in providing a common hospital.

Recovery of cost of maintenance of non-infectious patient in hospital.

LXXVI. Any expenses incurred by a sanitary authority in maintaining in a hospital (whether or not belonging to that authority) a patient who is not a pauper, and is not suffering from an infectious disease, shall be a simple contract debt due to the sanitary authority from that patient, or from any person liable by law to maintain him, but proceedings for its recovery shall not be commenced after the expiration of six months from the discharge of the patient, or if he dies in such hospital from the date of his death.

Power to provide temporary supply of medicine.

LXXVII. Any sanitary authority may, with the sanction of the Local Government Board, themselves provide, or contract with any person to provide, a temporary supply of medicine and medical assistance for the poorer inhabitants of their district.

Provision of conveyance for infected persons.

LXXVIII. A sanitary authority may provide and maintain carriages suitable for the conveyance of persons suffering from any infectious disease, and pay the expense of conveying therein any person so suffering to a hospital or other place of destination.

Power for Metropolitan Asylum Board to provide landing-places, vessels, ambulances, &c.

LXXIX.—(1) The metropolitan asylum managers shall continue to maintain the wharves, landing-places, and approaches thereto heretofore provided by them, whether within or without London, and may use the same for the embarkation and landing

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A person in a hospital is presumably a person "not able to work" within the Poor Relief Act, 1601 (43 Eliz. c. 2), s. 7, and the persons "liable by law to maintain" him will therefore be the persons designated in that statute, and in the Married Women's Property Act (45 & 46 Vict. c. 75), s. 21. See Archbold's Poor Law, 15th edition, pp. 255 *et seq.* Sect. 76. Note.

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The metropolitan asylum managers were required by the Diseases Prevention (Metropolis) Act, 1883 (46 & 47 Vict. c. 35), s. 6 (repealed by this Act), to provide on the banks of the Thames wharves or landing-places, not exceeding three in number, within the metropolis, and one beyond the metropolis, with proper approaches thereto, for the embarkation or landing of persons removed to or from any hospital ship or hospital belonging to the managers; and by the Metropolitan Asylum Board (Borrowing Powers) Act, 1884 (47 & 48 Vict. c. 60), s. 2 (now repealed), were authorized to borrow for that purpose. Sect. 79. Note. Sub-s. (1).

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of persons removed to or from any hospital belonging to the managers, and for any other purpose in relation thereto.

(2) The managers may also provide and maintain vessels for use in connection with the said wharves or landing-places, and with the hospitals of the managers, and also carriages suitable for the conveyance of persons suffering from any dangerous infectious disease, and shall cause the vessels and carriages to be from time to time properly cleansed and disinfected, and may provide and maintain such buildings and horses, and employ such persons, and do such other things as are necessary or proper for the purposes of such conveyance.

(3) The metropolitan asylum managers may allow any of the said carriages with the necessary attendants to be also used for the conveyance of persons suffering from any dangerous infectious disease to and from hospitals and places other than hospitals provided by the managers, and may make a reasonable charge for that use.

Reception of non-pauper fever and small-pox patients into hospital in metropolitan district.

LXXX.—(1) The metropolitan asylum managers, subject to such regulations and restrictions as the Local Government Board prescribe, may admit any person, who is not a pauper, and is reasonably believed to be suffering from fever or small-pox or diphtheria, into a hospital provided by the managers.

(2) The expenses incurred by the managers for the maintenance of any such person shall be paid by the board of guardians of the poor law union from which he is received.

(3) The said expenses shall be repaid to the board of guardians out of the metropolitan common poor fund.

(4) The admission of a person suffering from an infectious disease into any hospital provided by the metropolitan asylum managers, or the maintenance of any such person therein, shall not be considered to be parochial relief, alms, or charitable allowance to any person, or to the parent or husband of any

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Sect. 79. Note. Sub-s. (3).

This sub-section is a re-enactment with some variations of sect. 6 of the Poor Law Act, 1889 (52 & 53 Vict. c. 56), which is repealed by this Act.

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Sect. 80. Note. Sub-s. (1).

Hospitals are provided by the managers under the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), s. 5, for the reception and relief of the sick, insane, or infirm, or other class or classes of the poor chargeable in unions and parishes in the metropolis.

Sub-s. (3).

For the establishment and application of the metropolitan common poor fund, see Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), ss. 61—72, and amending statutes.

Sub-sections (1), (2), (3) of this section take the place of sub-sects. (1), (2), (3) of sect. 3 of the Poor Law Act, 1889 (52 & 53 Vict. c. 56), which are repealed by this Act.

person; nor shall any person or his or her parent or husband be by reason thereof deprived of any right or privilege, or be subjected to any disability or disqualification.

Reception into hospital in metropolitan district of child from school outside London.

LXXXI.—(1) Where the London School Board send any child to an industrial school which is provided by them outside London, such child shall for the purpose of the enactments relating to the metropolitan asylum managers be deemed to continue to be an inhabitant of London, and if such child is sent to any hospital of those managers he shall be deemed to have been sent from that place in London from which he was sent to the said industrial school.

(2) This section shall apply to that part of London which is not within the metropolitan asylum district as if it were within that district, and the board of guardians of the poor law union comprising that part shall pay for such child accordingly.

*Prevention of Epidemic Diseases.*

Sanitary authority to execute epidemic regulations. 38 & 39 Vict. c. 55.

LXXXII.—(1) The sanitary authority of any district within which or part of which regulations issued by the Local Government Board in pursuance of section one hundred and thirty-four of the Public Health Act, 1875, set out in the first schedule to this Act (in this Act referred to as the epidemic regulations), are in force, shall superintend and see to the execution thereof, and shall appoint and pay such medical or other officers or persons, and do and provide all such acts, matters, and things, as may be necessary for mitigating any disease to which the regulations relate, or for superintending or aiding in the execution of such regulations, or for executing the same, as the case may require.

(2) The sanitary authority may direct any prosecution or legal proceedings for or in respect of the wilful violation or neglect of any such regulation.

(3) The sanitary authority shall have power to enter on any premises or vessel for the purpose of executing or superintending the execution of any of the epidemic regulations.

Poor law medical officers entitled to costs of attendance on board vessels.

LXXXIII.—(1) Whenever, in compliance with the epidemic regulations, any poor law medical officer performs any medical service on board any vessel, he shall be entitled to charge extra for such service, at the general rate of his allowance for services for the poor law union for which he is appointed; and such charges shall be paid by the master of the vessel on behalf of the owners thereof, together with any reasonable expenses for the treatment of the sick.

(2) Where such service is rendered by any medical practitioner who is not a poor law medical officer, he shall be entitled to charge for the service with extra remuneration on account of distance, at the rate which he is in the habit of

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receiving from private patients of the class of those attended and treated on shipboard, and such charge shall be paid as aforesaid. Any dispute in respect of such charge may, where the charges do not exceed twenty pounds, be determined by a petty sessional court; and that court shall determine summarily the amount which is reasonable, according to the accustomed rate of charge within the place where the dispute arises for attendance on patients of the like class as those in respect of whom the charge is made.

Local Government Board may combine sanitary authorities.

LXXXIV. The Local Government Board may, if they think fit, by order authorize or require any two or more sanitary authorities to act together for the purposes of the epidemic regulations and prescribe the mode of such joint action, and of defraying the cost thereof, and generally may make any regulations necessary or proper for carrying into execution this section.

Metropolitan asylum managers a sanitary authority for prevention of epidemic diseases.

LXXXV.—(1) The metropolitan asylum managers shall within their district have for the purpose of the epidemic regulations such powers and duties of a sanitary authority as may be assigned to them by the regulations; and the Local Government Board may make regulations for that purpose and thereby provide for the adjustment of the functions of the managers relatively to those of any sanitary authorities.

(2) Subject to such regulations the metropolitan asylum managers may use any of their property, real or personal, and their staff, for the execution of any powers or duties conferred or imposed on them under this section.

Power to let hospitals, &c.

LXXXVI. Any authority or body of persons having the management and control of any hospital, infirmary, asylum, or workhouse may let the same or any part thereof to the metropolitan asylum managers, and enter into and carry into effect contracts with those managers for the reception, treatment, and maintenance therein of persons suffering from cholera or choleraic diarrhœa within the district of the managers:

30 & 31 Vict. c. 6.

Provided that the power conferred by this section shall not, without the consent of the Local Government Board, be exercised with respect to any asylum under the Metropolitan Poor Act, 1867, or any workhouse.

Repayment to sanitary authorities of certain expenses.

LXXXVII. The amount expended in pursuance of the epidemic regulations by any sanitary authority in providing any building for the reception of patients or other persons shall, to such extent as may be determined by the Local Government Board, together with two thirds of the salaries or remuneration of any officers or servants employed in any such building under this Act, be repaid to such sanitary authority from the metropolitan common poor fund by the

receiver of that fund, out of any monies for the time being in his hands, on the precept of the said board, to be issued after the production of such evidence in support of the expenditure as they may deem satisfactory, and the said board may require contributions for the purpose of raising the sums so repayable. Sect. 87.

*Mortuaries, &c.*

Power of local authority to provide mortuaries

LXXXVIII. Every sanitary authority shall provide and fit up a proper place for the reception of dead bodies before interment (in this Act called a mortuary), and may make byelaws with respect to the management and charges for the use of the same; they may also provide for the decent and economical interment, at charges to be fixed by such byelaws, of any dead body received into a mortuary.

Power of justice in certain cases to order removal of dead body to mortuary.

LXXXIX.—(1) Where either—

(*a.*) The body of a person who has died of any infectious disease is retained in a room in which persons live or sleep; or

(*b.*) The body of a person who has died of any dangerous infectious disease is detained without the sanction of the medical officer of health or any legally qualified medical practitioner for more than forty-eight hours, elsewhere than in a room not used at the time as a dwelling-place, sleeping-place, or workroom; or

(*c.*) Any dead body is retained in any house or room, so as to endanger the health of the inmates thereof, or of any adjoining or neighbouring house or building,

a justice may, on a certificate signed by a medical officer of health or other legally qualified medical practitioner, direct that the body be removed, at the cost of the sanitary authority, to any available mortuary, and be buried within the time limited by the justice; and may if it is the body of a person who has died of an infectious disease, or if he considers immediate burial necessary, direct that the body be buried immediately, without removal to the mortuary.

(2) Unless the friends or relations of the deceased undertake to bury and do bury the body within the time so limited, it shall be the duty of the relieving officer to bury such body, and any expense so incurred shall be paid (in the first instance)

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Sect. 89. Note. Sub-s. (2).

Every householder in whose house a dead body lies is (if no other person undertakes the duty) bound by common law to inter the body; and the authorities of a hospital are "householders" in this sense so as to be liable to bury all persons dying in the hospital (*Reg.* v. *Stewart*, 12 A. & E. 773; 4 P. & D. 349; *Reg.* v. *Price*, 12 Q. B. D. 247; 53 L. J. M. C. 51; 33 W. R. 45; 15 Cox, C. C. 389). Executors of the deceased having assets are liable to pay the expenses of the burial of the deceased (*Ambrose* v. *Kerrison*, 10

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by the board of guardians of the poor law union, but may be recovered by them in a summary manner from any person legally liable to pay the expense of such burial.

(3) If any person obstructs the execution of any direction given by a justice under this section, he shall be liable to a fine not exceeding five pounds.

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*Authorities for Execution of Act.*

XCIX.—(1) Subject to the provisions of this Act, the sanitary authority for the execution of this Act (in this Act referred to as "the sanitary authority") shall be as follows; (namely,)

Definition of sanitary authority.
18 & 19 Vict. c. 120.
48 & 49 Vict. c. 33.
50 & 51 Vict. c. 17.

(*a.*) In the city of London the commissioners of sewers; and

(*b.*) In each of the parishes mentioned in schedule (A.) to the Metropolis Management Act, 1855, as amended by the Metropolis Management Amendment Act, 1885, and the Metropolis Management (Battersea and Westminster) Act, 1887, other than Woolwich, the vestry of the parish; and

(*c.*) In each of the districts mentioned in schedule (B.) to the same Act, as so amended, the district board for the district; and

(*d.*) In the parish of Woolwich, the local board of health; and

(*e.*) In any place mentioned in schedule (C.) to the Metropolis Management Act, 1855, the board of guardians for such place or for any parish or poor law union of which it forms part, or, if there is no such board of guardians, the overseers of the poor for such place, or for the parish in which it is situate, and the said guardians and overseers respectively shall have the same powers for the purposes of this Act as a vestry or district

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Note.
Sub-s. (2).

C. B. 776; 20 L. J. C. P. 135). A husband is liable for the expense of burying his wife (*Jenkins* v. *Tucker*, 1 H. Bl. 91), and a parent for the expense of burying a child (*Reg.* v. *Vann*, 2 Den. C. C. 325; 21 L. J. M. C. 39; 15 Jur. 1090). But no one is liable who has no money wherewith to pay the expenses, and who can only obtain the money by incurring a debt (*Reg.* v. *Vann*, *supra*). (See Brooke-Little on Burials, 2nd ed. pp. 1—7.)

Sub-s. (3).

For recovery of fines, &c., see sects. 117—119, *post*.

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Sect. 99.
Note.
Sub-s. (1).

The "sanitary authority" under this Act is also constituted the authority for the execution of the Cleansing of Persons Act, 1897 (60 & 61 Vict. c. 31), by sect. 2 of that Act.

In a metropolitan borough the borough council is now the sanitary authority by virtue of sect. 4 of the London Government Act, 1899 (62 & 63 Vict. c. 14).

board have under this Act, and their expenses shall be defrayed in the same manner as the expenses of the execution of the Acts relating to the relief of the poor are defrayed in the said place. Sect. 99.

(2) The area within which this Act is executed by any sanitary authority is in this Act referred to as the district of that authority.

(3) The purposes for which a committee of a vestry or district board may be appointed under the Metropolis Management Act, 1855, and the Acts amending the same, shall include the purposes of this Act, and the provisions of those Acts with respect to committees shall apply accordingly.

(4) Where a sanitary authority appoint a committee for the purposes of this Act, that committee, subject to the terms of their appointment, may serve and receive notices, take proceedings, and empower any officer of the authority to make complaints and take proceedings on their behalf, and otherwise to execute this Act.

(5) A sanitary authority may acquire and hold land for the purposes of their duties without any licence in mortmain.

Power of county council to prosecute on default of sanitary authority.

C. The county council, on it being proved to their satisfaction that any sanitary authority have made default in doing their duty under this Act with respect to the removal of any nuisance, the institution of any proceedings, or the enforcement of any byelaw, may institute any proceeding and do any act which the authority might have instituted or done for that purpose, and shall be entitled to recover from the sanitary authority in default all such expenses in and about the said proceeding or act as the county council incur, and are not recovered from any other person, and have not been incurred in any unsuccessful proceeding.

Proceedings on complaint to Local Government Board of default of sanitary authority.

CI.—(1) Where complaint is made by the county council to the Local Government Board that a sanitary authority have made default in executing or enforcing any provisions which it is their duty to execute and enforce of this Act, or of any byelaw made in pursuance thereof, the Local Government Board, if satisfied after due inquiry that the authority have

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Sect. 99. Note. Sub-s. (3).

The purposes for which committees may be appointed and the powers of such committees will be found in sects. 58 and 59 of the Metropolitan Management Act, 1855, and are adapted to metropolitan borough councils by the London Government Act, 1899 (62 & 63 Vict. c. 14), s. 8.

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Sub-s. (4).

This sub-section was enacted to meet the case of *St. Leonard, Shoreditch*, v. *Holmes*, 50 J. P. 132, where it was held that an officer of a sanitary authority could not himself give a notice which the previous Act required to be given by the sanitary authority without first obtaining their sanction or direction.

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been guilty of the alleged default, and that the complaint cannot be remedied under the other provisions of this Act, shall make an order limiting a time for the performance of the duty of such authority in the matter of such complaint. If such duty is not performed by the time limited in the order, the order may be enforced by a writ of *mandamus*, or the Local Government Board may appoint the county council to perform such duty.

(2) Where such appointment is made, the county council shall, for the purpose of the execution of their duties under the said appointment, have all the powers of the defaulting sanitary authority, and all expenses incurred by the county council in the execution of the said duties, together with the costs of the previous proceedings, so far as not recovered from any other person, shall be a debt from the sanitary authority in default to the county council, and shall be paid by the sanitary authority out of any monies or rate applicable to the payment of the expenses of performing the duty in which they have made default.

(3) For the purpose of recovering such debt the county council, without prejudice to any other power of recovery, shall have the same power of levying the amount by a rate, and of requiring officers of the defaulting authority to pay over money in their hands, as the defaulting authority would have in the case of expenses legally payable out of a rate raised by that authority.

(4) The county council shall pay any surplus of the rate so levied to or to the order of the defaulting authority.

(5) If any loan is required to be raised for the purpose of the execution of their duties under the said appointment, the county council with the consent of the Local Government Board may raise the same, and may for that purpose borrow the required sum in the name of the defaulting authority for the same period, on the same security, and on the same terms as that authority might have borrowed, and the principal and interest of such loan shall be a debt due from the defaulting authority, and shall be secured and may be recovered in like manner as if the loan had been borrowed by that authority.

(6) The surplus (if any) of any loan not applied for the purpose for which it is raised shall, after payment of the expenses of raising the same, be paid to or to the order of the defaulting authority, and be applied as if it were the surplus of a loan raised by that authority.

[Sect. 102. *Applying Public Health Acts to Woolwich:* Repealed by London Government Act, 1899 (62 & 63 Vict. c. 14), s. 35 (2).]

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Sect. 101. Note. Sub-s. (3).

The power to require officers to pay over money in their hands is conferred on district boards and vestries by the Metropolis Management Act, 1855 (18 & 19 Vict. c. 120), s. 65, and is now transferred to the borough councils of the metropolitan boroughs by sect. 4 of the London Government Act, 1899 (62 & 63 Vict. c. 14).

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Expenses of execution of Act.

CIII. The expenses incurred by sanitary authorities in London under this Act shall, save as otherwise in this Act mentioned, be defrayed as follows; (namely,)

In the case of the commissioners of sewers, out of their sewer rate and consolidated rate, or either of such rates:

In the case of any vestry or district board, out of their general rate:

In the case of the local board of health of Woolwich, out of the district fund or general district rate.

Expenses of Metropolitan Asylum Board.

CIV.—(1) All expenses incurred by the metropolitan asylum managers in the execution of the provisions of this Act relating to the provision and maintenance of carriages, buildings, and horses, and the conveyance in such carriages of persons suffering from any dangerous infectious disease shall to such extent as the Local Government Board may sanction be defrayed out of the metropolitan common poor fund.

(2) Save as aforesaid, all expenses incurred by the said managers in the execution of this Act shall so far as they are not recovered from guardians in pursuance of this Act be defrayed in the same manner as the expenses mentioned in section thirty-one of the Metropolitan Poor Act, 1867, are to be defrayed under that section; and shall be raised and be recoverable in the same manner as expenses under that Act. 30 & 31 Vict. c. 6.

(3.) The provision of vessels and buildings in pursuance of this Act shall be purposes for which the metropolitan asylum managers may borrow in pursuance of the Metropolitan Poor Act, 1867, and any Acts amending the same.

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Summary proceedings for offences, expenses, &c.

CXVII.—(1) All offences, fines, penalties, forfeitures, costs, and expenses under this Act or any byelaw made under this Act directed to be prosecuted or recovered in a summary manner, or the prosecution or recovery of which is not otherwise provided for, may be prosecuted and recovered in manner directed by the Summary Jurisdiction Acts.

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Sect. 104.

Note.

The purposes for which metropolitan asylum managers may borrow are now prescribed by the Poor Law Act, 1897 (60 & 61 Vict. c. 29), s. 2, which applies the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 2, as amended to borrowing for purposes of the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), s. 17.

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Sect. 117.

Note.

Sub-s. (1).

A fine may be enforced by distress, and in default of distress by imprisonment, without regard to the means of the defendant. The recovery of a liquidated sum for expenses, however, is the recovery of a civil debt as defined by sects. 6, 35, of the Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49), and imprisonment cannot be imposed in default of distress without proof of means. (See *Reg.* v. *Paget*, 8 Q. B. D. 151; 51 L. J. M. C. 9; 45 L. T. 794; 30 W. R. 336; 46 J. P. 151.)

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(2) Proceedings for the recovery of a demand not exceeding fifty pounds, which a sanitary authority or any person are or is empowered to recover in a summary manner, may, at the option of the authority or person, be taken in the county court as if such demand were a debt.

(3) A proceeding under this Act shall not be taken by the county council against a sanitary authority save with the sanction of the Local Government Board, unless such proceeding is for the recovery of expenses or of money due from the sanitary authority to the council.

Evidence by defendant.

CXVIII. Any person charged with an offence under this Act, and the wife or husband of such person, may, if such person thinks fit, be called, sworn, examined, and cross-examined as an ordinary witness in the case.

Application of fines and disposal of things forfeited.

CXIX.—(1) All fines recovered under this Act shall, notwithstanding anything in any other Act, be paid to the sanitary authority and applied by them in aid of their expenses in the execution of this Act, except that any fine imposed on the sanitary authority shall be paid to the county council.

(2) All things forfeited under this Act may be sold or disposed of in such manner as the court ordering the forfeiture may direct.

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*Appeal.*

Appeal to quarter sessions.

CXXV. Any person who deems himself aggrieved by any conviction or order made by a court of summary jurisdiction on determining any information or complaint under this Act may, save as otherwise provided in this Act, appeal therefrom to a court of quarter sessions.

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*Notices.*

Authentication of notices, &c.

CXXVII.—(1) Notices, orders, and other such documents under this Act shall be in writing; and notices and documents other than orders, when issued by the county council or a

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Sect. 117. Note. Sub-s. (2).

The action must be commenced in the county court within six months from the arising of the cause of action in analogy to the limitation of time in the Summary Jurisdiction Act, 1848 (11 & 12 Vict. c. 43), s. 11. See *Tottenham Local Board* v. *Rowell*, 1 Ex. D. 514; 46 L. J. Q. B. 432; 35 L. T. (N. S.) 887; 25 W. R. 135, decided upon a similar clause in sect. 261 of the Public Health Act, 1875.

Sect. 125. Note.

Where the summons is for a fine, &c., in respect of an offence, there is no appeal to quarter sessions if the accused be acquitted (*Reg.* v. *London JJ.*, 25 Q. B. D. 357; 55 J. P. 56).

sanitary authority, shall be sufficiently authenticated if signed by their clerk or by the officer by whom the same are given or served. Sect. 127.

(2) Orders shall be under the seal of the council or authority duly authenticated.

Service of notices.

CXXVIII.—(1) Any notice, order, or other document required or authorized to be served under this Act may be served by delivering the same or a true copy thereof either to or at the usual or last known residence in England of the person to whom it is addressed, or, where addressed to the owner or occupier of premises, then to some person on the premises, or, if there is no person on the premises who can be so served, then by fixing the same or a true copy thereof on some conspicuous part of the premises; it may also be served by sending the same or a true copy thereof by post addressed to a person at such residence or premises as above mentioned.

(2) Any notice required or authorized for the purposes of this Act to be served on a sanitary authority or on the county council shall be deemed to be duly served if in writing delivered at, or sent by post to, the office of the authority or council, addressed to such authority or council, or their clerk.

(3) Any notice by this Act required to be given to or served on the owner or occupier of any premises may be addressed by the description of the "owner" or "occupier" of the premises (naming them) in respect of which the notice is given or served, without further name or description.

*Miscellaneous Provisions.*

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Provision for apportionment of certain expenses between hamlet of Penge and remainder of Lewisham district.

CXXXI. Where the whole or any part of any expense incurred by the Lewisham District Board of Works, in pursuance of the epidemic regulations, may, under this Act, be repaid to that board out of the metropolitan common poor fund, the amount to be so repaid when ascertained shall be apportioned between the hamlet of Penge and the remainder of the Lewisham district in proportion to the rateable value of such hamlet and remainder, according to the valuation lists in force at the date of the apportionment, and the amount apportioned to the hamlet of Penge shall be repaid to the district board by the board of guardians for the Croydon Union out of the common fund of the union, in pursuance of a precept of the Local Government Board to be issued after the like proceedings and in the like manner as in the case of a repayment from the metropolitan common poor fund; and the amount apportioned

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Sect. 131. Note.

The hamlet of Penge is within the Croydon union although situate in the Lewisham district, and does not contribute to the metropolitan common poor fund.

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to the remainder of the Lewisham district shall be repaid to the district board out of the metropolitan common poor fund.

Extent of Act.

CXXXII. This Act shall (save as otherwise expressly provided) extend only to London:

Provided that this Act shall extend to places elsewhere so far as is necessary for giving effect to any provisions thereof in their application to London and to any places to which such provisions are expressly applied.

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*Saving Clauses.*

Powers of Act to be cumulative.

CXXXVIII. All powers, rights, and remedies given by this Act shall be in addition to and not in derogation of any other powers, rights, and remedies conferred by any Act of Parliament, law, or custom, and all such other powers, rights, and remedies may be exercised and put in force in the same manner and by the same authority as if this Act had not passed.

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*Interpretation.*

Interpretation of terms.

CXLI. In this Act, unless the context otherwise requires,—

The expression "London" means the administrative county of London:

The expression "county council" means the London County Council:

The expression "the metropolitan asylum managers" means the managers of the metropolitan asylum district:

The expression "street" includes any highway, and any public bridge, and any road, lane, footway, square, court, alley, or passage, whether a thoroughfare or not, and whether or not there are houses in such street:

The expression "premises" includes messuages, buildings, lands, easements, and hereditaments of any tenure, whether open or enclosed, whether built on or not, and whether public or private, and whether maintained or not under statutory authority:

The expression "house" includes schools, also factories and other buildings in which persons are employed:

The expressions "building" and "house" respectively include the curtilage of a building or house, and include a building or house wholly or partly erected under statutory authority:

The expression "bakehouse" means any place in which are baked bread, biscuits, or confectionery, from the baking or selling of which a profit is derived:

The expression "vessel" includes a boat and every description of vessel used in navigation :

The expression "hospital" means any premises or vessels for the reception of the sick, whether permanently or temporarily applied for that purpose, and includes an asylum of the metropolitan asylum managers :

The expression "master" means in the case of a building or part of a building, a person in occupation of or having the charge, management, or control of the building, or part of the building, and in the case of a house the whole of which is let out in separate tenements, or in the case of a lodging-house the whole of which is let to lodgers, includes the person receiving the rent payable by the tenants or lodgers either on his own account or as the agent of another person, and in the case of a vessel means the master or other person in charge thereof :

The expression "house refuse" means ashes, cinders, breeze, rubbish, night-soil, and filth, but does not include trade refuse :

The expression "trade refuse" means the refuse of any trade, manufacture, or business, or of any building materials :

The expression "street refuse" means dust, dirt, rubbish, mud, road-scrapings, ice, snow, and filth :

The expression "owner" means the person for the time being receiving the rackrent of the premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if such premises were let at a rackrent :

The expression "rackrent" means rent which is not less than two-thirds of the full annual value of the premises out of which the rent arises ; and the full annual value shall be taken to be the annual rent which a tenant might reasonably be expected, taking one year with another, to pay for the premises, if the tenant undertook to pay all usual tenant's rates and taxes, and tithe commutation rentcharge (if any), and if the landlord undertook to bear the costs of the repairs, and insurance, and the other expenses (if any) necessary to maintain the premises in a state to command such rent :

The expression "slaughterer of cattle or horses" means a person whose business it is to kill any description of cattle, or horses, asses, or mules, for the purpose of the flesh being used as butcher's meat ; and the expression "slaughter-house" means any building or place used for the purpose of such business :

The expression "knacker" means a person whose business it

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is to kill any horse, ass, mule, or cattle which is not killed for the purpose of the flesh being used as butcher's meat; and the expression "knacker's yard" means any building or place used for the purpose of such business:

The expression "cattle" includes sheep, goats, and swine:

The expression "source of water supply" means any stream, reservoir, aqueduct, pond, well, tank, cistern, pump, fountain, or other work or means for the supply of water, whether actually used or capable of being used for the supply of water or not:

The expression "sanitary convenience" includes urinals, water-closets, earth closets, privies, and any similar conveniences:

The expression "day" means the period between six o'clock in the morning and the succeeding nine o'clock in the evening:

The expression "ashpit" means any ashpit, dust-bin, ash-tub, or other receptacle for the deposit of ashes or refuse matter:

The expression "cistern" includes a water-butt:

The expression "dairy" includes any farm, farmhouse, cowshed, milk-store, milk-shop, or other place from which milk is supplied, or in which milk is kept for purposes of sale:

The expression "dairyman" includes any cowkeeper, purveyor of milk, or occupier of a dairy.

*Repeal.*

Repeal of enactments in schedule.

CXLII.—(1) The Acts specified in the fourth schedule to this Act are hereby repealed to the extent specified in the third column of that schedule, and shall be so repealed as from the date in that schedule mentioned, and where no date is mentioned as from the commencement of this Act;

(2) Provided that—

(*a.*) Where any enactment in the said schedule extends beyond London, such enactment shall not unless otherwise expressed be deemed to be hereby repealed, so far as it applies beyond London:

(*b.*) All securities given under and all orders, byelaws, rules, regulations, and notices duly made or issued under or having effect in pursuance of any Act hereby repealed shall be of the same validity and effect as if they had been given, made, or issued under this Act, and any penalties recoverable under any such order, byelaw, rule, regulation, or notice may be recovered as if they were imposed by byelaws under this Act.

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(3) Where the county council or a sanitary authority are required by this Act to make byelaws for any purpose for which there are no byelaws of the council or authority in force at the commencement of this Act, the first byelaws made by the county council or sanitary authority for that purpose under this Act shall be submitted to the Local Government Board for sanction not later than six months after the commencement of this Act.

(4) Any enactment expressed in the fourth schedule to this Act to be repealed as from the coming into operation of any byelaw made for the like object shall, although no such byelaw is made, be repealed on the expiration of twelve months next after the commencement of this Act, or such later day, not exceeding eighteen months from such commencement, as may be fixed by order in council.

(5) For the removal of doubts it is hereby declared that so much of the Public Health Act, 1875, as re-enacts * * * sections thirty-four to thirty-six of the Public Health Act, 1872, extends to London.

38 & 39 Vict. c. 55.
29 & 30 Vict. c. 90.
35 & 36 Vict. c. 79.

(6) Officers appointed under any enactment hereby repealed shall continue in office in like manner as if they were appointed in pursuance of this Act, subject nevertheless to the provisions of this Act respecting existing officers.

(6) Where in any enactment or in any order made by a Secretary of State or by the Local Government Board, and in force at the time of the passing of this Act, or in any document, any Act or any provisions of an Act are mentioned or referred to which relate to London and are repealed by this Act, such enactment, order, or document shall be read as if this Act or the corresponding provisions of this Act were therein mentioned or referred to instead of such repealed provisions, and as if a sanitary authority under this Act were substituted for any nuisance authority mentioned in such repealed provisions.

CXLIII. This Act shall come into operation on the first day of January next after the passing thereof. Commencement of Act.

CXLIV. This Act may be cited as the Public Health (London) Act, 1891. Short title.

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A part of this sub-section is repealed by the Public Health Act, 1896 (59 & 60 Vict. c. 19), s. 6.

Note.
Sub-s. (5).

## SCHEDULES.

Schedule I.

### FIRST SCHEDULE.

*Enactments Applied.*

[The applied enactments have no special relation to the powers and duties of the metropolitan asylums managers, and their headings only are therefore printed here.]

*Section* 33 *of the Metropolis Water Act*, 1871.

[Sect. 33. Absence of proper water fittings in premises to be a nuisance.]

*Sections* 108 *and* 115 *of the Public Health Act*, 1875, *relating to Nuisances out of the District.*

[Sect. 108. Power to proceed where cause of nuisance arises without district.]

[Sect. 115. Power to proceed where nuisance arises from offensive trade carried on without district.]

*Sections* 130, 134, 135, *and* 140 *of the Public Health Act*, 1875, *and section* 2 *of the Public Health Act*, 1889, *relating to regulations and orders of the Local Government Board with respect to cholera, or other epidemic, endemic, or infectious diseases.*

[Sect. 130. *Power of Local Government Board to make regulations:* The inclusion of the last paragraph of sect. 130 (1) and the whole of sect. 130 (2) in this schedule is repealed by 59 & 60 Vict. c. 19, s. 6.]

[Sect. 134. Power of Local Government Board to make regulations for prevention of diseases.]

[Sect. 135. Publication of regulations and orders.]

[Sect. 140. Penalty for violating or obstructing the execution o regulations.]

*Sections* 182—186 *of the Public Health Act*, 1875, *relating to byelaws.*

[Sect. 182. Authentication and alteration of byelaws.]

[Sect. 183. Power to impose penalties on breach of byelaws.]

[Sect. 184. Confirmation of byelaws.]

[Sect. 185. Byelaws to be printed, &c.]

[Sect. 186. Evidence of byelaws.]

*Sections* 293—296 *of the Public Health Act*, 1875, *relating to Inquiries of the Local Government Board.*

[Sect. 293. Power of board to direct inquiries.]

[Sect. 294. Orders as to costs of inquiries.]

[Sect. 295. Orders of board under this Act.]

[Sect. 296. Powers of inspectors of Local Government Board.]

*Sections* 211 *and* 212 *of the Metropolis Management Act*, 1855, *relating to Appeals to London County Council.*

[Sect. 211. Power to appeal against orders and acts of vestries and district boards in relation to construction of works.]

[Sect. 212. County Council to appoint a committee for hearing appeals.]

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SECOND SCHEDULE.

[*Provisions of Public Health Acts extended to Woolwich: Repealed by the London Government Act*, 1899 (62 & 63 *Vict. c.* 14), *s.* 35 (2), *by sect.* 19 *of which Act Woolwich is to be placed under the general law applying to metropolitan boroughs.*]

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THIRD SCHEDULE.

[Forms as to abatement of nuisances.]

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Schedule IV.

## FOURTH SCHEDULE.

*Enactments Repealed.*

| Session and Chapter. | Title or Short Title. | Extent of Repeal. |
|---|---|---|
| 26 Geo. 3, c. 71 . | An Act for regulating houses and other places kept for the purpose of slaughtering horses. | The whole Act. |
| 57 Geo. 3, c. xxix. . | An Act for better Paving, Improving and Regulating the Streets of the Metropolis, and Removing and Preventing Nuisances and Obstructions therein. | Section fifty-seven so far as it relates to a cesspool; sections fifty-nine to sixty-one; section sixty-three; section sixty-four from "or shall throw" to "either of such pavements" as from the coming into operation of any byelaw made for the like object; sections sixty-seven and sixty-eight; and sections seventy-three and seventy-four as from the coming into operation of any bye-law made for the like object. |
| 2 & 3 Vict. c. 47 . | An Act for further improving the police in and near the metropolis. | Section sixty, from "or cause any offensive matter" to "so as to be a common nuisance," as from the coming into operation of any byelaw made for the like object; and from "every occupier of a house" to "reference to this enactment." |
| 7 & 8 Vict. c. 87 . | An Act to amend the law for regulating places kept for slaughtering horses. | The whole Act. |
| 16 & 17 Vict. c. 128 . | An Act to abate the Nuisance arising from the smoke of Furnaces in the Metropolis and from Steam Vessels above London Bridge. | The whole Act as respects all places without as well as within London. |
| 18 & 19 Vict. c. 116 . | The Diseases Prevention Act, 1855. | The whole Act. |

FOURTH SCHEDULE (*continued*). Schedule IV.

| Session and Chapter. | Title or Short Title. | Extent of Repeal. |
|---|---|---|
| 18 & 19 Vict. c. 120. | The Metropolis Management Act, 1855. | Section eighty-one; sections eighty-two to eighty-five, except so far as they relate to a drain or sewer, or any work or apparatus connected therewith; section eighty-six down to "defrayed under this Act;" sections eighty-eight, one hundred and three, and one hundred and four; section one hundred and sixteen from "and also to cause" to the end of the section; sections one hundred and seventeen, and one hundred and twenty-five; section one hundred and twenty-six, as from the coming into operation of any byelaw made for the like object; sections one hundred and twenty-seven to one hundred and twenty-nine, one hundred and thirty-two, one hundred and thirty-three, and one hundred and thirty-four; section one hundred and ninety-eight from "and to every such report" to "for their parish or district"; section two hundred and two from "for the emptying" to "disposing of refuse" as from the coming into operation of any byelaw made for the like object; and section two hundred and eleven so far as regards any water-closet, privy, ashpit or cesspool." |

Schedule IV.

FOURTH SCHEDULE (*continued*).

| Session and Chapter. | Title or Short Title. | Extent of Repeal. |
|---|---|---|
| 18 & 19 Vict. c. 121 . | The Nuisances Removal Act for England, 1855. | The whole Act. |
| 19 & 20 Vict. c. 107 . | An Act to amend the Smoke Nuisance Abatement (Metropolis) Act, 1853. | The whole Act as respects all places without as well as within London. |
| 23 & 24 Vict. c. 77 . | An Act to amend the Acts for the Removal of Nuisances and the Prevention of Diseases. | The whole Act. |
| 25 & 26 Vict. c. 102. | The Metropolis Management Amendment Act, 1862. | Sections forty-three and sixty-two; in section sixty-four the word "eighty-first," and the words "and eighty-sixth"; sections sixty-seven, seventy, eighty-nine, ninety-one, ninety-three, ninety-four, and ninety-five, and section one hundred and five from "and all penalties" to "1855." |
| 26 & 27 Vict. c. 117. | The Nuisances Removal Act for England (Amendment Act, 1863. | The whole Act. |
| 29 & 30 Vict. c. 41 . | The Nuisances Removal (No. 1) Act, 1866. | The whole Act. |
| 29 & 30 Vict. c. 90 . | The Sanitary Act, 1866 . . | The whole Act, except section forty-one. |
| 31 & 32 Vict. c. 115. | The Sanitary Act, 1868 . . | The whole Act. |
| 32 & 33 Vict. c. 100. | The Sanitary Loans Act, 1869. | The whole Act. |
| 33 & 34 Vict. c. 53 . | The Sanitary Act, 1870 . . | The whole Act. |
| 35 & 36 Vict. c. 79 . | The Public Health Act, 1872. | The whole Act. |
| 37 & 38 Vict. c. 67 . | The Slaughterhouses, &c. (Metropolis) Act, 1874. | The whole Act. |

FOURTH SCHEDULE (*continued*). Schedule IV.

| Session and Chapter. | Title or Short Title. | Extent of Repeal. |
|---|---|---|
| 37 & 38 Vict. c. 89 . | The Sanitary Law Amendment Act, 1874. | The whole Act, except so much of sections forty-six and forty-nine as relates to common lodging-houses. |
| 38 & 39 Vict. c. 55 . | The Public Health Act, 1875. | Section one hundred and eight from "In this section" to the end of the section; section one hundred and fifteen from "In this section" to the end of the section.<br>Section two hundred and ninety-one, as respects the whole of the Port of London. |
| 41 & 42 Vict. c. 74 . | The Contagious Diseases (Animals) Act, 1878. | Section thirty-four. |
| 42 & 43 Vict. c. 54 . | The Poor Law Act, 1879 . | Sections fifteen and sixteen. |
| 43 & 44 Vict. c. lix. . | The Local Government Board's Provisional Orders Confirmation (Amersham Union, &c.) Act, 1880. | Section two. |
| 46 & 47 Vict. c. 35 . | The Diseases Prevention (Metropolis) Act, 1883. | The whole Act. |
| 46 & 47 Vict. c. 53 . | The Factory and Workshop Act, 1883. | Section seventeen, down to "for the district," being the first two sub-sections. |
| 47 & 48 Vict. c. 60 . | The Metropolitan Asylum Board (Borrowing Powers) Act, 1884. | The whole Act. |
| 48 & 49 Vict. c. 72 . | The Housing of the Working Classes Act, 1885. | Section seven; and section nine from "This section shall apply" to "sanitary authority," being sub-section (6). |
| 49 & 50 Vict. c. 32 . | The Contagious Diseases (Animals) Act, 1886. | Section nine. |

Schedule IV.

FOURTH SCHEDULE (*continued*).

| Session and Chapter. | Title or Short Title. | Extent of Repeal. |
|---|---|---|
| 51 & 52 Vict. c. 41 . | The Local Government Act, 1888. | Section forty-five; and section eighty-eight, from "Section one hundred and ninety-one" to the end of the section, being sub-section (*c*). |
| 52 & 53 Vict. c. 56 . | The Poor Law Act, 1889 . | Section three, down to "common poor fund," being sub-sections (1), (2), and (3); and sections six and seven. |
| 52 & 53 Vict. c. 64 . | The Public Health Act, 1889. | Section one, from "and as regards" to the end of the section; and in section two the words "or of section fifty-two of the Sanitary Act, 1866." |
| 52 & 53 Vict. c. 72 . | The Infectious Disease (Notification) Act, 1889. | Section two, from "to every London" down to "Act and" being sub-section (*a*); sections ten and twelve; section sixteen, from "the Commissioners of Sewers" down to "Act, 1887," being sub-sections (*a*) and (*b*); and from "The expression 'London district'" down to "local authority is elected." |
| 53 & 54 Vict. c. 34 . | The Infectious Disease (Prevention) Act, 1890. | Section two, from "Local authority" to the end of the section; section three, from "to every London district" to "this Act; and"; and section five, down to "London district, and". |
| 53 & 54 Vict. c. ccxliii. | The London Council (General Powers) Act, 1890. | Sections twenty-two and twenty-four. |

# PUBLIC WORKS LOANS ACT, 1892.

55 & 56 VICT. CHAP. 61.

An Act to grant Money for the purpose of certain Local Loans, and for other purposes relating to Local Loans.

[28th June, 1892.]

* * * * *

II. Section ten of the Public Works Loans Act, 1875, and section two of the Public Works Loans Act, 1879 (which sections fix the minimum rate of interest on loans) shall, in their application to loans granted after the passing of this Act, have effect as if four per cent. were therein substituted for five per cent.

Reduction of minimum rate of interest on loans.

38 & 39 Vict. c. 89.

42 & 43 Vict. c. 77.

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# ELEMENTARY EDUCATION (BLIND AND DEAF CHILDREN) ACT, 1893.

56 & 57 VICT. CHAP. 42.

An Act to make better Provision for the Elementary Education of Blind and Deaf Children in England and Wales.

[12th September, 1893.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

I.—(1) The efficient elementary instruction which under the Elementary Education Act, 1876, a parent must cause his child to receive, shall, in the case of a blind or deaf child, be construed as including instruction suitable to such a child, and the fact of a child being blind or deaf, shall not of itself, except in the case of a deaf child under seven years of age, be a reasonable excuse for not causing the child to attend school,

Obligation of parents as to blind and deaf children.

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Sect. 1.

Note.

For the "efficient elementary instruction" prescribed by the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), see sect. 4 of that Act.

As to what may be a "reasonable excuse" for non-attendance at school, see sect. 74 of the Elementary Education Act, 1870 (33 & 34 Vict. c. 75), and sects. 9, 11 of the Elementary Education Act, 1876 (39 & 40 Vict. c. 79).

Sect. 1.

or for neglecting to provide efficient elementary instruction for the child.

(2) In the case of a blind or deaf child, the fact that there is not within any particular distance from the residence of the child any public elementary school which the child can attend shall not of itself be a reasonable excuse for not causing the child to attend school, or for neglecting to provide efficient elementary instruction for the child.

Duty of school authority with respect to blind and deaf children.

II.—(1) It shall be the duty of every school authority, as defined by this Act, to enable blind and deaf children resident in their district, for whose elementary education efficient and suitable provision is not otherwise made, to obtain such education in some school for the time being certified by the Education Department as suitable for providing such education, and for that purpose either to establish or acquire and to maintain a school so certified, or to contribute, on such terms and to such extent as may be approved by the Education Department, towards the establishment or enlargement, alteration, and maintenance of a school so certified, or towards any of these purposes, and, where necessary or expedient, to make arrangements, subject to regulations of the Education Department, for boarding out any blind or deaf child in a home conveniently near to the certified school where the child is receiving elementary education.

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Sect. 2.

Note.

By the Poor Law (Certified Schools) Act, 1862 (25 & 26 Vict. c. 43), guardians were authorized to send orphans or deserted children to certain certified schools, which term, by sect. 10 of that Act, included institutions established for the instruction of blind, deaf, dumb, lame, deformed or idiotic persons. This power was extended by the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122) s. 23, to include illegitimate as well as legitimate children; and by the Divided Parishes and Poor Law Amendment Act, 1882 (45 & 46 Vict. c. 58), guardians were empowered to pay the expenses incurred in the maintenance, clothing and education of such children while at such schools or institutions. By the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 42, guardians were empowered to send any poor deaf and dumb or blind child to any school fitted for the reception of such child, although that school was not certified.

These enactments are repealed by sect. 13 of this Act, to the extent indicated in that section, and the duty of providing education for blind and deaf children is now cast, by this section, upon the school authority, except as regards the children mentioned in sub-sect. (2), with regard to whom the above-recited enactments are still in force.

The powers of the school authority under this Act are extended to providing education, &c., for defective and epileptic children by the Elementary Education (Defective and Epileptic Children) Act, 1899 (62 & 63 Vict. c. 32).

Sect. 2.

(2) Provided that the duty of a school authority under this section shall not extend to children who are—

(*a.*) Idiots or imbeciles ; or

(*b.*) Resident in a workhouse or in any institution to which they have been sent by a board of guardians from a workhouse ; or

(*c.*) Boarded out by guardians.

(3) Where a school authority contributes under this section to the establishment, enlargement, or alteration of a certified school maintained by another authority, the terms approved by the Education Department shall include security for repayment of the value of the contribution, in the event of the school ceasing to be certified.

Power to make provision for representation.

III. The terms of contribution approved by the Education Department may include provision for representation of the contributing school authority on the governing body of the school to which it contributes, in cases where such representation appears to the Education Department to be practicable and expedient.

Constitution of school authority.

IV. The school authority for the purposes of this Act shall be—

(*a.*) For an area under a school board, the school board ;

(*b.*) For an area not under a school board, any district council established for the local government of the district comprising that area under an Act of the present or any future session of Parliament, acting through a committee of that council appointed for educational purposes, [*and until such a council is established, the board of guardians, or borough council or urban sanitary authority, appointing a school attendance committee for the area, acting through that committee.*]

Powers and expenses of school authority.

V.—(1) For the performance of their duties under this Act a school authority may, without prejudice to any other powers, exercise the like powers as may be exercised by a school board

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Sect. 4. Note.

The words in italics in this section are repealed by the Elementary Education Act, 1900 (63 & 64 Vict. c. 53), being rendered unnecessary by the provisions of the Local Government Act, 1894.

Sect. 5. Note.

The latter portion of this section, providing for the minimum rate of interest, is repealed by the Public Works Loans Act, 1897 (60 & 61 Vict. c. 51).

See the Elementary Education Act, 1870 (33 & 34 Vict. c. 75), s. 19, and the Elementary Education Act, 1873 (36 & 37 Vict. c. 86), s. 10, as to the powers of a school board for providing school accommodation in their district and borrowing money for defraying the cost.

The provisions of this section are applied with modifications to school authorities acting under the Elementary Education (Defective and Epileptic Children) Act, 1899 (62 & 63 Vict. c. 32), by sect. 6 of that Act.

Sect. 5.

for the provision of school accommodation for their district, and the consent of the Education Department to the exercise of the power of borrowing for the purposes of this Act may be given in any case in which the exercise of that power appears to the department expedient.

(2) The expenses of a school authority under this Act shall be paid out of the fund applicable to their general expenses, [*or where the school authority are a board of guardians, out of a fund to be raised out of the poor rate of the parishes for which the school attendance committee of the board act, according to the rateable value of each parish.*]

(3) Two or more school authorities may combine for the performance of their duties under this Act, and subject to the provisions of this section as to expenses, section fifty-two of the Elementary Education Act, 1870, shall apply in the case of any such combination as if each school authority were a school board, and the enactments relating to the audit of school board accounts shall apply as if any joint body of managers appointed in pursuance of this sub-section were a school board.

33 & 34 Vict. c. 75.

(4) The Public Works Loan Commissioners may, on the recommendation of the Education Department, lend any money required for the purposes of this Act by a school authority on the security of the fund applicable to the expenses of this Act, and every such loan shall be repaid within a period not exceeding fifty years. . . .

Provision in case of failure of duty by school authority.

VI. If the Education Department are satisfied, after such inquiry and such notice to a school authority or to a committee of the authority as they think expedient, that the school authority or a committee of the authority have failed to perform their duty under this Act, the Education Department may either—

39 & 40 Vict. c. 79.

(1) Proceed in manner directed by section twenty-seven of the Elementary Education Act, 1876 ; or

(2) Order that the school authority pay to any certified school specified in the order, towards the expenses of any particular child at the school, such annual or other sum as may be fixed by order of the department, and any sum so ordered to be paid shall be a debt to the school from the school authority.

Conditions and effect of grant of certificate to school for blind or deaf children.

VII.—(1) A school shall not be certified by the Education Department as suitable for providing elementary education for blind or deaf children—

Sect. 5. Sub-s. (2). Note.

The words printed in italics are repealed by the Elementary Education Act, 1900 (63 & 64 Vict. c. 53). See note to sect. 4, *supra*.

Sect. 7. Note.

This section is applied with modifications to schools for defective or epileptic children by the Elementary Education (Defective and Epileptic Children) Act, 1899 (62 & 63 Vict. c. 32), s. 5.

Sect. 7.

(*a.*) If it is conducted for private profit; nor

(*b.*) Unless it is either managed by a school authority, or the annual expenses of its maintenance are, to the extent of not less than one-third, defrayed out of sources other than local rates, or monies provided by Parliament, and are audited and published in accordance with regulations of the Education Department; nor

(*c.*) Unless it is open at all times to the inspection of Her Majesty's Inspectors of Schools and of any visitors authorized by any school authority sending children to the school; nor

(*d.*) Unless the requirements of this Act are complied with in the case of the school.

(2) Every school so certified (in this Act referred to as a certified school) shall be deemed to be a certified efficient school within the meaning of the Elementary Education Act, 1876, and for the purposes of section eleven of that Act may, in the case of a blind or deaf child, be treated as if it were a public elementary school.

(3) A certificate granted in pursuance of this section shall be annual.

(4) For the purposes of this section there shall be included in local rates any sum received under this Act by a school authority from a parent and applied towards the general expenses of the school authority.

Provisions as to religious instruction.

VIII.—(1) If and so far as the school which a child is required in pursuance of this Act to attend is not a public elementary school, it must, in all matters relating to the religious instruction and observances of the child be conducted in accordance with the rules applying to industrial schools, except that references in the Industrial Schools Act, 1866, and the rules made under it, to the Secretary of State shall be construed as references to the Education Department; and any school authority may provide and maintain for the purposes of this Act a school so conducted.

29 & 30 Vict. c. 118.

(2) Every rule made under this section shall be forthwith laid before both Houses of Parliament.

(3) In selecting a school under this Act the school authority shall be guided by the rules laid down in the Industrial Schools

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Sect. 8. Note.

For the rules laid down in the Industrial Schools Act, 1866 (29 & 30 Vict. c. 118), as to selection of a school, see sects. 18 and 20 of that Act.

The provisions in this section as to religious education are extended to schools for defective and epileptic children by the Elementary Education (Defective and Epileptic Children) Act, 1899 (62 & 63 Vict. c. 32), by sect. 12 of that Act.

Sect. 8.

Act, 1866, and if a child is boarded out in pursuance of this Act, the school authority shall, if possible, arrange for the boarding out being with a person belonging to the religious persuasion of the child's parent.

(4) Where a child is required in pursuance of this Act to attend any school, the child shall not be compelled to receive religious instruction contrary to the wishes of the parent, and shall, so far as practicable, have facilities for receiving religious instruction and attending religious services conducted in accordance with the parent's persuasion, which shall be duly registered on the child's admission to the school.

Liability of parent for expenses of blind or deaf child.

54 & 55 Vict. c. 56.

IX.—(1) Where a school authority incur any expense under this Act in respect of any blind or deaf child, the parent of the child shall be liable to contribute towards the expenses of the child such weekly sum, if any, as, regard being had to the provisions of the Elementary Education Act, 1891, may be agreed on between the school authority and the parent, or, if the parties fail to agree, as may, on the application of either party, be settled by a court of summary jurisdiction, and any sum so agreed on or settled may, without prejudice to any other remedy, be recovered by the school authority summarily as a civil debt.

(2) It shall be the duty of the school authority to enforce any order made under this section, and any sum received by a school authority under this section may be applied by the school authority in aid of their general expenses.

(3) A court competent to make an order under this section may at any time revoke or vary any order so made.

Saving for rights of parent.

X.—(1) The parent of a blind or deaf child shall not, by reason of any payment made under this Act in respect of the child, be deprived of any franchise, right, or privilege, or be subject to any disability or disqualification.

(2) Payments under this Act shall not be made on condition of a child attending any certified school other than such as may be reasonably selected by the parent, nor refused because the child attends or does not attend any particular certified school.

Period of education for blind and deaf.

XI. For the purposes of the Elementary Education Acts, 1870 to 1891, a blind or deaf boy or girl shall be deemed to be a child until the age of sixteen years; and the period of compulsory education shall, in the case of such a child, extend to sixteen years, and the attendance of such a child at school

Sect. 9.

Note.

The provisions of this section as to contribution by parents are extended to cases of children sent to schools provided under the Elementary Education (Defective and Epileptic Children) Act, 1899 (62 & 63 Vict. c. 32), by sect. 8 (1) of that Act.

may be enforced as if it were required by byelaws made under the Elementary Education Acts, 1870 to 1891; and any such child shall not, in pursuance of any such byelaws, be entitled to total or partial exemption from the obligation to attend school. Sect. 11.

XII. Nothing in any Act of Parliament shall prevent the Education Department from giving aid from the Parliamentary grant to a certified school in respect of education given to blind or deaf children to such amount and on such conditions as may be directed by or in pursuance of the minutes of the Education Department in force for the time being. Grants from public money towards education of blind and deaf children.

XIII.—(1) As from the first day of July one thousand eight hundred and ninety-four so much of any enactment in force at that date as empowers boards of guardians to send blind or deaf children to school shall be repealed, except as to children who are— Repeal of powers of guardians to send blind or deaf children to school.

(*a.*) Idiots or imbeciles; or

(*b.*) Resident in a workhouse or in an institution to which they have been sent by a board of guardians from a workhouse; or

(*c.*) Boarded out by guardians.

(2) Provided that, where any blind or deaf child with respect to whom the powers of guardians cease in pursuance of this section is on the first day of July one thousand eight hundred and ninety-four relieved in any institution by a board of guardians, the child shall continue chargeable as if this Act had not passed, until the expiration of six months' notice to be given by the guardians, if they think fit, to the school authority of the district from which the child was sent.

XIV. The Education Department shall annually lay before both Houses of Parliament a report of their proceedings under this Act during the preceding year, and in that report shall give lists of the schools to which they have granted and refused certificates under this Act during the year, with their reasons for each such refusal. Report to be laid before Parliament.

XV.—(1) In this Act— Interpretation of terms.

The expression "blind" means too blind to be able to read the ordinary school books used by children;

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For the enactments which are repealed by this section, see note to sect. 2, *supra*. Sect. 13.

Note.

The duties of guardians with regard to the three classes of children excepted in this section who require relief remain as before.

Sect. 15.

The expression "deaf" means too deaf to be taught in a class of hearing children in an elementary school;

The expression "school" includes any institution in which blind or deaf children are boarded or lodged as well as taught, and any establishment for boarding or lodging children taught in a certified school;

The expression "elementary education" may include industrial training whether given in the school which the child attends or not;

The expression "maintenance" includes clothing;

The expression "expenses," when used in relation to a child, includes the expenses of and incidental to the attendance of the child at a school, and of and incidental to the maintenance and boarding-out of the child while so attending, and the expenses of conveying the child to or from the school;

Other expressions have, unless the contrary intention appears, the same meaning as in the Elementary Education Acts, 1870 to 1891.

(2) For the purposes of this Act a child resident in a school or boarded out in pursuance of this Act shall be deemed to be resident in the district from which the child is sent.

Extent of Act.

XVI. This Act shall not extend to Scotland or Ireland.

Commencement of Act.

XVII. This Act shall come into operation on the first day of January one thousand eight hundred and ninety-four.

Short title.

XVIII. This Act may be cited as the Elementary Education (Blind and Deaf Children) Act, 1893, and shall be read with the Elementary Education Acts, 1870 to 1891.

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# ELEMENTARY EDUCATION (SCHOOL ATTENDANCE) ACT, 1893.

56 & 57 VICT. CHAP. 51.

An Act to amend the Elementary Education Acts with respect to the age for attendance at school.

[22nd September, 1893.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Sect. 1.

Age for exemption from school attendance.

I. The age at which a child may, in pursuance of any byelaw made under the Elementary Education Acts, 1870 to 1891, obtain total or partial exemption from the obligation to attend school, on obtaining a certificate as to the standard of examination which he has reached shall be raised to eleven, and every such byelaw, so far as it provides for such exemption, shall be construed and have effect as if a reference to eleven years of age were substituted therein for a reference to a lower age, and in section seventy-four of the Elementary Education Act, 1870, eleven shall be substituted for ten.

33 & 34 Vict. c. 75.

Penalty for employment of children before exemption from school attendance.

II. If any person takes a child into his employment in such manner as to prevent the child from attending school in accordance with the byelaws for the time being in force in the district in which the child resides, he shall be deemed to take the child into his employment in contravention of the Elementary Education Act, 1876, and shall be liable to a penalty accordingly.

39 & 40 Vict. c. 79.

Saving.

III. Nothing in this Act shall apply in the case of any child who at the passing of this Act is under the byelaws then in force in the district in which he resides exempt wholly or partially, as the case may be, from the obligation to attend school.

Commencement of Act.

IV. This Act shall come into operation on the first day of January one thousand eight hundred and ninety-four.

Short title.

V. This Act may be cited as the Elementary Education (School Attendance) Act, 1893, and shall be read with the Elementary Education Acts, 1870 to 1891.

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# THE PUBLIC AUTHORITIES PROTECTION ACT, 1893.

56 & 57 VICT. CHAP. 61.

An Act to generalize and amend certain statutory provisions for the protection of persons acting in the execution of statutory and other public duties.

[5th December, 1893.]

Sect. 2.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Note.

See sect. 6 of the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), for the penalty.

Sect. 1.

Protection of persons acting in execution of statutory or other public duty.

I. Where after the commencement of this Act any action, prosecution, or other proceeding is commenced in the United Kingdom against any person for any act done in pursuance, or execution, or intended execution of any Act of Parliament, or of any public duty or authority, or in respect of any alleged neglect or default in the execution of any such Act, duty, or authority, the following provisions shall have effect :

(*a.*) The action, prosecution, or proceeding shall not lie or be instituted unless it is commenced within six months next after the act, neglect, or default complained of, or, in case of a continuance of injury or damage, within six months next after the ceasing thereof :

(*b.*) Wherever in any such action a judgment is obtained by the defendant, it shall carry costs to be taxed as between solicitor and client :

(*c.*) Where the proceeding is an action for damages, tender of amends before the action was commenced may, in lieu of or in addition to any other plea, be pleaded. If the action was commenced after the tender, or is proceeded with after payment into court of any money in satisfaction of the plaintiff's claim, and the plaintiff does not recover more than the sum tendered or paid, he shall not recover any costs incurred after the tender or payment, and the defendant shall be entitled to costs, to be taxed as between solicitor and client, as from the time of the tender or payment ; but this provision shall not affect costs on any injunction in the action :

(*d.*) If, in the opinion of the court, the plaintiff has not given the defendant a sufficient opportunity of tendering amends before the commencement of the proceeding, the court may award to the defendant costs to be taxed as between solicitor and client.

This section shall not affect any proceedings by any department of the Government against any local authority or officer of a local authority.

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Sect. 1.

Note.

The word "action" in this section includes any action, whether for an injunction, or for damages, or partly for an injunction and partly for damages ; and in any such action against a public authority judgment for the defendants carries the right to an order for costs to be taxed as between solicitor and client, and the court has no discretion in the matter (*Harrop* v. *Ossett, Mayor, &c., of*, [1898] 1 Ch. 525 ; 67 L. J. Ch. 347 ; 78 L. T. 387 ; 46 W. R. 391 ; 62 J. P. 295 ; *Toms* v. *Clacton Urban District Council*, [1898] 78 L. T. 712 ; 46 W. R. 629 ; 62 J. P. 505 ; nor is it necessary for the court to give any direction in the matter (*North Metropolitan Tramways Co.* v. *London County Council* [1898], 2 Ch. 145 ; 67 L. J. Ch. 449 ; 78 L. T. 711 ; 46 W. R. 554).

This section applies to judgment in the action, not to interlocutory applications or appeals (*Fielden* v. *Morley Corporation* [1899], 1 Ch. 1 ; 67 L. J. Ch. 611 ; 79 L. T. 231 ; *Southwark and Vauxhall Water Co.* v. *Wandsworth*, 67 L J. Ch. 657).

Repeal.

II. There shall be repealed as to the United Kingdom so much of any public general Act as enacts that in any proceeding to which this Act applies —

(*a.*) The proceeding is to be commenced in any particular place; or

(*b.*) The proceeding is to be commenced within any particular time; or

(*c.*) Notice of action is to be given; or

(*d.*) The defendant is to be entitled to any particular kind or amount of costs, or the plaintiff is to be deprived of costs in any specified event; or

(*e.*) The defendant may plead the general issue;

and in particular there shall be so repealed the enactments specified in the schedule to this Act to the extent in that schedule mentioned.

This repeal shall not affect any proceeding pending at the commencement of this Act.

Saving as to Scotland.

III. This Act shall not apply to any action, prosecution, or other proceeding for any act done in pursuance or execution, or intended execution, of any Act of Parliament, or in respect of any alleged neglect or default in the execution of any Act of Parliament, or on account of any act done in any case instituted under an Act of Parliament, when that Act of Parliament applies to Scotland only, and contains a limitation of the time and other conditions for the action, prosecution, or proceeding.

Commencement.

IV. This Act shall come into operation on the first day of January one thousand eight hundred and ninety-four.

Short title.

V. This Act may be cited as the Public Authorities Protection Act, 1893.

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SCHEDULE.

*Enactments Repealed.*

Section 2.

| Session and Chapter. | Title. |
|---|---|
| 43 Eliz. c. 2 . . in part. | The Poor Relief Act, 1601— in part; namely,— Section eighteen. |
| 3 Jas. 1, c. 10 . . in part. | An Acte for the rating and levying of the charges for conveying malefactors and offendors to the gaole— in part; namely,— Section three. |

Schedule.

SCHEDULE (*continued*).

| Session and Chapter. | Title. |
|---|---|
| 7 Jas. 1, c. 5 . . | An Acte for ease in pleading against troublesome and contencious suites prosecuted against Justices of the Peace, Maiors, Constables, and certaine other his Majesties officers, for the lawfull execucion of their office. |
| 21 Jas. 1, c. 12 . | An Acte for ease in Pleading against troublesome and contencious suits. |
| 3 Chas. 1, c. 2. . in part. | An Act for the further reformacion of sundry abuses committed on the Lord's Day commonlie called Sonday—<br>in part ; namely,—<br>from "that such bill plaint or information" to "Provided further." |
| 31 Chas. 2, c. 2 . in part. | The Habeas Corpus Act, 1679—<br>in part ; namely,—<br>Section nineteen. |
| 8 & 9 Will. 3, c. 27. in part. | An Acte for the more effectual relief of creditors in cases of escapes and for preventing abuses in prisons and pretended priviledged places—<br>in part ; namely,—<br>Section seventeen. |
| 1 Anne, c. 12 . . in part. | *An Act the title whereof begins with the words*—<br>An Act to explain—*and ends with the words*—<br>Rochester Bridge—<br>in part ; namely,—<br>Section seven. |
| 1 Anne, stat. 2, c. 6 in part. | An Act for the better preventing escapes out of the Queen's Bench and Fleet Prisons—<br>in part ; namely,—<br>Section five. |
| 6 Geo. 2, c. 35 . in part. | An Act for enforcing the laws against foreign Lotteries—<br>in part ; namely,—<br>Section thirty-two. |
| 8 Geo. 2, c. 13. . in part. | The Engraving Copyright Act, 1734—<br>in part ; namely,—<br>Section three. |
| 12 Geo. 2, c. 26 . in part. | An Act for the better preventing frauds and abuses in gold and silver wares—<br>in part ; namely,—<br>Section twenty-three. |
| 12 Geo. 2, c. 28 . in part. | The Gaming Act, 1738—<br>in part ; namely,—<br>Section twelve. |

SCHEDULE (*continued*). Schedule.

| Session and Chapter. | Title. |
|---|---|
| 12 Geo. 2, c. 29 in part. | An Act for the more easy assessing, collecting, and levying of county rates—<br>in part ; namely,—<br>Section twenty-four. |
| 15 Geo. 2, c. 20 in part. | An Act to prevent the counterfeiting of Gold and Silver Lace ; and for settling and adjusting the proportions of fine Silver and Silk ; and for the better making of Gold and Silver Thread—<br>in part ; namely,—<br>Section ten. |
| 17 Geo. 2, c. 38 in part. | The Poor Relief Act, 1743—<br>in part ; namely,—<br>Sections nine and ten. |
| 19 Geo. 2, c. 21 in part. | The Profane Oaths Act, 1745—<br>in part ; namely,—<br>Section eleven. |
| 29 Geo. 2, c. 36 in part. | An Act for inclosing, by the mutual consent of the Lord and Tenants, Part of any Common for the purpose of planting and preserving Trees fit for Timber or Underwood ; and for more effectually preventing the unlawful Destruction of Trees—<br>in part ; namely,—<br>Section ten. |
| 31 Geo. 2, c. 22 in part. | An Act for granting to His Majesty several Rates and Duties upon Offices and Pensions—<br>in part ; namely,—<br>Section seventy-nine. |
| 7 Geo. 3, c. 38 in part. | The Engraving Copyright Act, 1766—<br>in part, namely,—<br>Section eight. |
| 10 Geo. 3, c. 47 in part. | The East India Company Act, 1770—<br>in part ; namely,—<br>Sections five and seven. |
| 13 Geo. 3, c. 82 in part. | *An Act the title whereof begins with the words*—An Act for the better regulation of Lying-in Hospitals—*and ends with the words*—and Places—<br>in part ; namely,—<br>Sections seventeen and eighteen. |
| 15 Geo. 3, c. 53 in part. | The Copyright Act, 1775—<br>in part ; namely,—<br>Section seven. |
| 17 Geo. 3, c. 11 in part. | An Act for more effectually preventing Frauds and Abuses committed by persons employed in the manufactures of Combing Wool, Worsted Yarn, and Goods made from Worsted, in the counties of York, Lancaster, and Chester—<br>in part ; namely,—<br>Section twenty-four. |

Schedule.

SCHEDULE (*continued*).

| Session and Chapter. | Title. |
|---|---|
| 17 Geo. 3, c. 56 in part. | *An Act the title whereof begins with the words*—An Act for amending—*and ends with the words*—by Journeymen Dyers—<br>in part; namely,—<br>Section twenty-five. |
| 23 Geo. 3, c. 15 in part. | An Act for rendering more effectual the provisions contained in an Act of the thirteenth year of King George the First, for preventing frauds and abuses in the dyeing trade—<br>in part; namely,—<br>Section fifteen. |
| 26 Geo. 3, c. 71 in part. | The Knackers Act, 1786—<br>in part; namely,—<br>Section eighteen. |
| 28 Geo. 3, c. 7. in part. | *An Act the title whereof begins with the words*—An Act to amend—*and ends with the words*—Silver thread—<br>in part; namely,—<br>Section six. |
| 36 Geo. 3, c. 52 in part. | The Legacy Duty Act, 1796—<br>in part; namely,—<br>Section forty-seven. |
| 36 Geo. 3, c. 60 in part. | An Act to regulate the making and vending of Metal Buttons, and to prevent the Purchasers thereof from being deceived in the real Quality of such Buttons—<br>in part; namely,—<br>Section twenty-one. |
| 36 Geo. 3, c. 88 in part. | *An Act the title whereof begins with the words*—An Act to regulate the buying and selling of Hay and Straw—*and ends with the words*—Limits therein mentioned—<br>in part; namely,—<br>Section thirty-one. |
| 38 Geo. 3, c. 5. in part. | The Land Tax Act, 1797—<br>in part; namely,—<br>Section thirty-nine. |
| 39 Geo. 3, c. 79 in part. | The Unlawful Societies Act, 1799—<br>in part; namely,—<br>Section thirty-seven. |
| 41 Geo. 3, c. 79 in part. | The Public Notaries Act, 1801—<br>in part; namely,—<br>Section seventeen. |
| 42 Geo. 3, c. 85 in part. | *An Act the title whereof begins with the words*—An Act for trying—*and ends with the words*—safe custody—<br>in part; namely,—<br>Section six to "Provided always that." |

SCHEDULE (*continued*). Schedule.

| Session and Chapter. | Title. |
|---|---|
| 42 Geo. 3, c. 119 . in part. | The Gaming Act, 1802— in part ; namely,— Section eight. |
| 45 Geo. 3, c. 28 . in part. | An Act for granting to His Majesty additional Stamp Duties in Great Britain on certain Legacies— in part ; namely,— Section twelve. |
| 50 Geo. 3, c. 108 . in part. | An Act to amend and enlarge the Powers of an Act passed in the second year of His present Majesty, for the encouragement of the Fisheries of this Kingdom, and the protection of the Persons employed therein— in part ; namely,— Section fifteen. |
| 52 Geo. 3, c. 38 . in part. | The Militia (England) Act, 1812— in part ; namely,— Section two hundred and six. |
| 52 Geo. 3, c. 155 . in part. | An Act to repeal certain Acts and amend other Acts relating to Religious Worship and assemblies, and persons teaching or preaching therein— in part ; namely,— Section eighteen. |
| 53 Geo. 3, c. 127 . in part. | An Act for the better regulation of Ecclesiastical Courts in England, and for the more easy recovery of Church rates and tithes— in part ; namely,— Section twelve. |
| 54 Geo. 3, c. 159 . in part. | The Harbours Act, 1814— in part ; namely,— Section twenty-seven. |
| 55 Geo. 3, c. 194 . in part. | The Apothecaries Act, 1815— in part ; namely,— Section thirty. |
| 57 Geo. 3, c. 19 . in part. | The Seditious Meetings Act, 1817— in part ; namely,— Sections thirty-two and thirty-three. |
| 58 Geo. 3, c. 45 . in part. | The Church Building Act, 1818— in part ; namely,— Section eighty-three. |
| 60 Geo. 3 & 1 Geo. 4, c. 1. in part. | An Act to prevent the training of persons to the use of arms, and to the practice of military evolutions and exercise— in part ; namely,— Sections five and six. |
| 60 Geo. 3 & 1 Geo. 4, c. 8. in part. | An Act for the more effectual prevention and punishment of blasphemous and seditious libels— in part ; namely,— Sections eight and nine. |

Schedule.

SCHEDULE (*continued*).

| Session and Chapter. | Title. |
|---|---|
| 4 Geo. 4, c. 60 . in part. | An Act for granting to His Majesty a sum of money to be raised by Lotteries— in part ; namely,— Section sixty-eight. |
| 4 Geo. 4, c. 80 . in part. | An Act to consolidate and amend the several Laws now in force with respect to Trade from and to places within the limits of the Charter of the East India Company, and to make further provisions with respect to such trade— in part ; namely,— Section thirty-three. |
| 5 Geo. 4, c. 83. . in part. | The Vagrancy Act, 1824— in part ; namely,— Section nineteen. |
| 5 Geo. 4, c. 84. . in part. | The Transportation Act, 1824— in part ; namely,— Sections twenty-seven and twenty-eight. |
| 5 Geo. 4, c. 96. . in part. | The Masters and Workmen Arbitration Act, 1824— in part ; namely,— Sections thirty-three and thirty-four. |
| 6 Geo. 4, c. 50. . in part. | The Juries Act, 1825— in part ; namely,— Sections fifty-eight and fifty-nine. |
| 6 Geo. 4, c. 78. . in part. | The Quarantine Act, 1825— in part ; namely,— Section thirty-seven. |
| 7 Geo. 4, c. 63. . in part. | An Act to provide for repairing, improving, and rebuilding Shire Halls, County Halls, and other buildings for holding the Assizes and Grand Sessions, and also Judges' lodgings, throughout England and Wales— in part ; namely,— Section twenty-one. |
| 9 Geo. 4, c. 61. . in part. | The Alehouse Act, 1828— in part ; namely,— Section thirty. |
| 9 Geo. 4, c. 82. . | The Lighting of Towns (Ireland) Act, 1828— in part ; namely,— Section seventy-four. |
| 10 Geo. 4, c. 24 . in part. | The Government Annuities Act, 1829— in part ; namely,— Section fifty-one. |
| 1 & 2 Will. 4, c. 22. in part. | The London Hackney Carriage Act, 1831— in part ; namely,— Section seventy-three. |

SCHEDULE (*continued*). Schedule.

| Session and Chapter. | Title. |
|---|---|
| 1 & 2 Will. 4, c. 32. in part. | The Game Act, 1831— in part; namely,— Section forty-seven. |
| 1 & 2 Will. 4, c. 41. in part. | The Special Constables Act, 1831— in part; namely,— Section nineteen. |
| 2 & 3 Will. 4, c. 75. in part. | The Anatomy Act, 1832— in part; namely,— Section seventeen. |
| 2 & 3 Will. 4, c. 93. in part. | An Act for enforcing the process upon contempts in the Courts Ecclesiastical of England and Ireland— in part; namely,— Section five. |
| 2 & 3 Will. 4, c. 120. in part. | The Stage Carriages Act, 1832— in part; namely,— Section one hundred and sixteen. |
| 3 & 4 Will. 4, c. 90. in part. | The Lighting and Watching Act, 1833— in part; namely,— Section sixty-nine. |
| 3 & 4 Will. 4, c. 93. in part. | An Act to regulate the trade to China and India— in part; namely,— Section nine. |
| 4 & 5 Will. 4, c. 76. in part. | The Poor Law Amendment Act, 1834— in part; namely,— Section one hundred and four. |
| 5 & 6 Will. 4, c. 50. in part. | The Highway Act, 1835— in part; namely,— Section one hundred and nine. |
| 6 & 7 Will. 4, c. 37. in part. | The Bread Act, 1836— in part; namely,— Section thirty. |
| 6 & 7 Will. 4, c. 71. in part. | The Tithe Act, 1836— in part; namely,— Section ninety-four. |
| 7 Will. 4 & 1 Vict. c. 36. in part. | The Post Office (Offences) Act, 1837— in part; namely,— Section forty-six. |
| 2 & 3 Vict. c. 71 . in part. | The Metropolitan Police Courts Act, 1839— in part; namely,— Section fifty-three. |
| 3 & 4 Vict. c. 50 . in part. | An Act to provide for keeping the Peace on canals and navigable rivers— in part, namely,— Section eighteen. |

Schedule.

SCHEDULE (*continued*).

| Session and Chapter. | Title. |
|---|---|
| 4 & 5 Vict. c. 30 . in part. | The Ordnance Survey Act, 1841— in part; namely,— Section fourteen. |
| 4 & 5 Vict. c. 35 . in part. | The Copyhold Act, 1841— in part; namely,— Section ninety-five. |
| 5 & 6 Vict. c. 45 . in part. | The Copyright Act, 1842— in part; namely,— Section twenty-six. |
| 5 & 6 Vict. c. 97 . in part. | An Act to amend the Law relating to double costs, notices of action, limitations of actions, and pleas of the general issue under general Acts of Parliament— in part; namely,— Section two. |
| 6 & 7 Vict. c. 40 . in part. | The Hosiery Act, 1843— in part; namely,— Section thirty-one, to "on behalf of the defendant or avowant." |
| 6 & 7 Vict. c. 86 . in part. | The London Hackney Carriages Act, 1843— in part; namely,— Section forty-seven. |
| 7 & 8 Vict. c. 19 . in part. | An Act for regulating the Bailiffs of Inferior Courts— in part; namely,— Section eight. |
| 7 & 8 Vict. c. 22 . in part. | The Gold and Silver Wares Act, 1844— in part; namely,— Section thirteen. |
| 8 & 9 Vict. c. 63 . in part. | An Act to facilitate the completion of a Geological Survey of Great Britain and Ireland, under the direction of the First Commissioner for the time being of Her Majesty's Woods and Works— in part; namely,— Section five. |
| 8 & 9 Vict. c. 118 . in part. | The Inclosure Act, 1845— in part; namely,— Section one hundred and sixty-five. |
| 10 & 11 Vict. c. 16 . in part. | The Commissioners Clauses Act, 1847— in part; namely,— Section one hundred and three. |
| 11 & 12 Vict. c. 44 . in part. | The Justices Protection Act, 1848— in part; namely,— Section ten, to "Provided always that." Sections eleven, twelve, and fourteen. |

SCHEDULE (*continued*). Schedule.

| Session and Chapter. | Title. |
|---|---|
| 11 & 12 Vict. c. 83. in part. | An Act to confirm the Awards of Assessionable Manors Commissioners, and for other purposes relating to the Duchies of Cornwall and Lancaster—<br>in part; namely,—<br>Section twelve. |
| 12 & 13 Vict. c. 16. in part. | The Justices Protection (Ireland) Act, 1849—<br>in part; namely,—<br>Sections eight, nine, and twelve.<br>In section thirteen, the words "or any costs of suit whatsoever."<br>Section fourteen. |
| 12 & 13 Vict. c. 92. in part. | The Cruelty to Animals Act, 1849—<br>in part; namely,—<br>Section twenty-seven. |
| 17 & 18 Vict. c. 103. in part. | The Towns Improvement (Ireland) Act, 1854—<br>in part; namely,—<br>Section ninety-five. |
| 18 & 19 Vict. c. 119. in part. | The Passengers Act, 1855—<br>in part; namely,—<br>Section ninety-three. |
| 18 & 19 Vict. c. 122. in part. | The Metropolitan Building Act, 1855—<br>in part; namely,—<br>Section one hundred and eight. |
| 22 & 23 Vict. c. 66. in part. | The Sale of Gas Act, 1859—<br>in part; namely,—<br>Sections twenty-seven and twenty-eight. |
| 24 & 25 Vict. c. 96. in part. | The Larceny Act, 1861—<br>in part; namely,—<br>Section one hundred and thirteen. |
| 24 & 25 Vict. c. 97. in part. | The Malicious Damage Act, 1861—<br>in part; namely,—<br>Section seventy-one. |
| 24 & 25 Vict. c. 99. in part. | The Coinage Offences Act, 1861—<br>in part; namely,—<br>Section thirty-three. |
| 25 & 26 Vict. c. 102. in part. | The Metropolis Management Amendment Act, 1862—<br>in part; namely,—<br>Section one hundred and six. |
| 27 & 28 Vict. c. 25. in part. | The Naval Prize Act, 1864—<br>in part; namely,—<br>Section fifty-one. |
| 28 & 29 Vict. c. 125. in part. | The Dockyard Ports Regulation Act, 1865—<br>in part; namely,—<br>Section twenty-four. |

Schedule.

SCHEDULE (*continued*).

| Session and Chapter. | Title. |
|---|---|
| 28 & 29 Vict. c. 126. in part. | The Prison Act, 1865— in part; namely,— Sections forty-nine and fifty. |
| 34 & 35 Vict. c. 43. in part. | The Ecclesiastical Dilapidations Act, 1871— in part; namely,— Section sixty-eight. |
| 38 & 39 Vict. c. 55. in part. | The Public Health Act, 1875— in part; namely,— Section two hundred and sixty-four. |
| 39 & 40 Vict. c. 36. in part. | The Customs Consolidation Act, 1876— in part; namely,— Sections two hundred and sixty-eight to two hundred and seventy-two. |
| 40 & 41 Vict. c. 13. in part. | The Customs, Inland Revenue, and Savings Bank Act, 1877— in part; namely,— Section four. |
| 41 & 42 Vict. c. 52. in part. | The Public Health (Ireland) Act, 1878— in part; namely,— Section two hundred and sixty-three. |
| 43 & 44 Vict. c. 19. in part. | The Taxes Management Act, 1880— in part; namely,— Section twenty, to "every such action or suit." |
| 51 & 52 Vict. c. 43. in part. | The County Courts Act, 1888— in part; namely,— Section fifty-three. |
| 53 & 54 Vict. c. 5 . in part. | The Lunacy Act, 1890— in part; namely,— Section three hundred and thirty-one. |
| 53 & 54 Vict. c. 21. in part. | The Inland Revenue Regulation Act, 1890— in part; namely,— Section twenty-eight. |

# THE LOCAL GOVERNMENT ACT, 1894.

## 56 & 57 VICT. CHAP. 73.

An Act to make further provision for Local Government in England and Wales. [5th March, 1894.]

[A considerable portion of this Act relates to matters connected with the poor law, such as the qualification and election of guardians, and the severance of their duties as guardians from their duties as rural district councillors; the alteration of the boundaries of parishes and unions; the appointment of overseers and assistant overseers and the transfer of some of the powers of churchwardens and overseers to parish councils, &c. Although many sections of the Act have no direct application to any matters relating to the poor law, it has been thought advisable for convenience of reference to include the whole Act here, although the notes are for the most part confined to matters relating to the Poor Law.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

### PART I.

### PARISH MEETINGS AND PARISH COUNCILS.

*Constitution of Parish Meetings and Parish Councils.*

Constitution of parish meetings and establishment of parish councils.

I.—(1) There shall be a parish meeting for every rural parish, and there shall be a parish council for every rural parish which has a population of three hundred or upwards: Provided that an order of the county council in pursuance of Part III. of this Act—

(*a.*) Shall, if the parish meeting of a rural parish having a population of one hundred or upwards so resolve, provide for establishing a parish council in the parish, and may, with the consent of the parish meeting of any rural parish having a population of less than one hundred, provide for establishing a parish council in the parish; and

(*b.*) May provide for grouping a parish with some neighbouring parish or parishes under a common parish council, but with a separate parish meeting for every parish so grouped, so, however, that no parish shall be grouped without the consent of the parish meeting for that parish.

(2) For the purposes of this Act every parish in a rural sanitary district shall be a rural parish.

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Sect. 1. Note. Sub-s. (2).

The area of a rural sanitary district is the poor law union exclusive of any urban district or districts within it, *i.e.*, any union

Sect. 1.

(3) Where a parish is at the passing of this Act situate partly within and partly without a rural sanitary district, the part of the parish which is within the district, and the part which is without, shall as from the appointed day, but subject to any alteration of area made by or in pursuance of this or any other Act, be separate parishes, in like manner as if they had been constituted separate parishes under the Divided Parishes and Poor Law Amendment Act, 1876, and the Acts amending the same.

39 & 40 Vict. c. 61.

Parish meetings.

II.—(1) The parish meeting for a rural parish shall consist of the following persons, in this Act referred to as parochial electors, and no others, namely, the persons registered in such portion either of the local government register of electors or of the Parliamentary register of electors as relates to the parish.

(2) Each parochial elector may, at any parish meeting, or at any poll consequent thereon, give one vote and no more on any question, or, in the case of an election, for each of any number of persons not exceeding the number to be elected.

(3) The parish meeting shall assemble at least once in every year, and the proceedings of every parish meeting shall begin not earlier than six o'clock in the evening.

(4) Subject to the provisions of this Act as to any particular person being the chairman of a parish meeting, the meeting may choose their own chairman.

(5) A poll consequent on a parish meeting shall be taken by ballot.

(6) The reasonable expenses of and incidental to the holding

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Sect. 1. Note. Sub-s. (2).

which is not coincident in area with an urban district, with the exception of those portions (if any) of the area which are included in any urban district (Public Health Act, 1875 (38 & 39 Vict. c. 5), s. 9).

Sub-s. (3).

Where a parish has been divided into two parishes by the operation of this section, settlements which had been acquired in the original entire parish are lost, and the persons who had acquired such settlements do not retain a settlement in either of the two new parishes, and cannot therefore be removed to either of such parishes as being the place of their last legal settlement (*St. Saviour's Union* v. *Dorking Union*, [1898] 1 Q. B. 594; 67 L. J. Q. B. 408; 78 L. T. 29; 46 W. R. 309; 62 J. P. 308).

The Acts referred to in this sub-section are the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61); the Poor Law Act, 1879 (42 & 43 Vict. c. 54); and the Divided Parishes and Poor Law Amendment Act, 1882 (45 & 46 Vict. c. 58), which (*inter alia*) enable the Local Government Board to constitute separate parishes out of isolated or otherwise detached parts of parishes which are locally divided, or to amalgamate such isolated parts with the parish in which they are included. A parish so constituted is "a parish for which an overseer shall be appointed, and for all other lay and civil purposes to which a parish may be liable or entitled" (39 & 40 Vict. c. 61, s. 6).

Sect. 2.

of a parish meeting or the taking of a poll consequent thereon shall be defrayed as herein-after provided.

(7) With respect to parish meetings the provisions in the first schedule to this Act shall have effect.

Constitution of parish council.

III.—(1) The parish council for a rural parish shall be elected from among the parochial electors of that parish or persons who have during the whole of the twelve months preceding the election resided in the parish, or within three miles thereof, and shall consist of a chairman and councillors, and the number of councillors shall be such as may be fixed from time to time by the county council, not being less than five nor more than fifteen.

(2) No person shall be disqualified by sex or marriage for being elected or being a member of a parish council.

(3) The term of office of a parish councillor shall be one year.

(4) On the fifteenth day of April in each year (in this Act referred to as the ordinary day of coming into office of councillors) the parish councillors shall go out of office, and their places shall be filled by the newly elected councillors.

(5) The parish councillors shall be elected by the parochial electors of the parish.

(6) The election of parish councillors shall, subject to the provisions of this Act, be conducted according to rules framed under this Act for that purpose by the Local Government Board.

(7) The parish council shall in every year, on or within seven days after the ordinary day of coming into office of councillors, hold an annual meeting.

(8) At the annual meeting, the parish council shall elect, from their own body or from other persons qualified to be councillors of the parish, a chairman, who shall, unless he resigns, or ceases to be qualified, or becomes disqualified, continue in office until his successor is elected.

(9) Every parish council shall be a body corporate by the name of the parish council, with the addition of the name of the parish, or if there is any doubt as to the latter name, of such name as the county council after consultation with the parish meeting of the parish direct, and shall have perpetual succession, and may hold land for the purposes of their powers and duties without licence in mortmain; and any act of the council may be signified by an instrument executed at a meeting of the council, and under the hands or, if an instrument under seal is required, under the hands and seals, of the chairman presiding at the meeting and two other members of the council.

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Sect. 3. Note. Sub-s. (1).

This sub-section is amended by the Local Government Act, 1897, 60 & 61 Vict. c. 1, by making eligible (if otherwise qualified) for election at the parish council election of the succeeding year any person who has entered into residence on or before March 25th of any year, notwithstanding his period of residence shall be under one year.

Sect. 3.

(10) With respect to meetings of parish councils the provisions in the first schedule to this Act shall have effect.

Use of schoolroom.

IV.—(1) In any rural parish in which there is no suitable public room vested in the parish council or in the chairman of a parish meeting and the overseers which can be used free of charge for the purposes in this section mentioned, the parochial electors and the parish council shall be entitled to use, free of charge, at all reasonable times, and after reasonable notice, for the purpose of—

(*a.*) The parish meeting or any meeting of the parish council; or

(*b.*) Any inquiry for parochial purposes by the Local Government Board or any other Government department or local authority; or

(*c.*) Holding meetings convened by the chairman of the parish meeting or by the parish council, or if as to allotments in the manner prescribed by the Allotments Act, 1890, or otherwise, as the Local Government Board may by rule prescribe, to discuss any question relating to allotments, under the Allotments Acts, 1887 and 1890, or under this Act; or

53 & 54 Vict. c. 65.

(*d.*) The candidature of any person for the district council or the parish council; or

(*e.*) Any committee or officer appointed, either by the parish meeting or council or by a county or district council, to administer public funds within or for the purposes of the parish

any suitable room in the schoolhouse of any public elementary school receiving a grant out of monies provided by Parliament, and any suitable room the expense of maintaining which is payable out of any local rate:

Provided that this enactment shall not authorize the use of any room used as part of a private dwelling-house, nor authorize any interference with the school hours of an elementary day or evening school, nor, in the case of a room used for the administration of justice or police, with the hours during which it is used for these purposes.

(2) If, by reason of the use of the room for any of the said purposes, any expense is incurred by the persons having control over the room, or any damage is done to the room or to the building of which the room is part or its appurtenances, or the furniture of the room or the apparatus for instruction, the expense or damage shall be defrayed as part of the expenses of the parish meeting or parish council or inquiry as the case may be; but when the meeting is called for the purpose of the candidature of any person, such expense or damage shall be reimbursed to the parish meeting or the parish council by the persons by whom or on whose behalf the meeting is convened.

(3) If any question arises under this section as to what is

Sect. 4.

reasonable or suitable, it may be determined, in the case of a schoolhouse, by the Education Department, in the case of a room used for the administration of justice or police, by a Secretary of State, and in any other case by the Local Government Board.

*Powers and Duties of Parish Councils and Parish Meetings.*

Parish council to appoint overseers.

V.—(1) The power and duty of appointing overseers of the poor, and the power of appointing and revoking the appointment of an assistant overseer, for every rural parish having a parish council, shall be transferred to and vested in the parish council, and that council shall in each year, at their annual meeting, appoint the overseers of the parish, and shall as soon as may be fill any casual vacancy occurring in the office of overseer of the parish, and shall in either case forthwith give written notice thereof in the prescribed form to the board of guardians.

Sect. 5.

Note.

Sub-s. (1).

Until the passing of this Act overseers were nominated by the vestry of a parish or township and appointed by justices under 43 Eliz. c. 2, s. 1. In rural parishes both nomination and appointment are now in the hands of the parish council, or in the case of small parishes, of the parish meeting (sect. 19 (5), *infra*). In urban parishes and townships the old system continues, unless under sect. 33 (1) of this Act the power of appointing overseers has been conferred by the Local Government Board upon the municipal council or upon the council of the urban district, or some other representative body within the borough or district, or the powers, duties, and liabilities of the overseers themselves have been conferred upon such council or body, in which latter case there would be no other appointment of overseers.

Assistant overseers have been appointed by justices on the nomination of the vestry under 59 Geo. 3, c. 12, s. 7; or by the guardians under 7 & 8 Vict. c. 101, s. 61, but this latter enactment is repealed by this Act. In rural parishes the nomination and appointment are now in the parish council or parish meeting, and in urban parishes and townships remain as formerly, unless the power of appointment has been conferred, under sect. 33 (1) of this Act, upon the council or representative body of the borough or urban district. The power of revoking the appointment of an assistant overseer has always been in the hands of the authorities who appointed him, and that is still the case. The Local Government Board, however, have had and still have the power under 4 & 5 Will. 4, c. 76, s. 48, of removing an assistant overseer and ordering another to be appointed. The appointment of overseers is to be part of the first business at the annual meeting of the parish council (schedule 1, part 2, rule 3, *infra*). There is no specific provision as to the time when overseers shall be appointed by a parish meeting, but the appointment should be made at the annual meeting, which is to be held on some day between March 1st and April 1st (Local Government Act, 1897 (60 & 61 Vict. c. 1), s. 2). If in a rural parish or an urban parish in respect to which the power of appointing overseers has been transferred under sect. 33 (1) of this Act, notice of the appointment of overseers is not received by the guardians of the union comprising the parish within three weeks

Sect. 5.

(2) As from the appointed day—

(*a.*) The churchwardens of every rural parish shall cease to be overseers, and an additional number of overseers may be appointed to replace the churchwardens, and

(*b.*) References in any Act to the churchwardens and overseers shall, as respects any rural parish, except so far as those references relate to the affairs of the church, be construed as references to the overseers, and

(*c.*) The legal interest in all property vested either in the overseers or in the churchwardens and overseers of a rural parish, other than property connected with the affairs of the church, or held for an ecclesiastical charity, shall, if there is a parish council, vest in that council, subject to all trusts and liabilities affecting the same, and all persons concerned shall make or

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Sect. 5.

after April 15th, or after the occurrence of a vacancy in the office of overseer, the guardians are to make the appointment (Sect. 50, *infra*).

Note.

Sub s. (1). The plaintiff was assistant overseer and clerk to the parish council of H. At the annual meeting of the parish council, pursuant to notice on the agenda paper "to elect a chairman, overseers of the parish, and other officers," the parish council appointed a councillor to the office of assistant overseer and clerk to the parish instead of the plaintiff and revoked his appointment. The plaintiff brought an action against the parish council for damages in lieu of notice. *Held* that the notice to "elect other officers" was a good notice within schedule 1, part 2, rule 5, to this Act; that the parish had power to revoke the plaintiff's appointment; and that the plaintiff had no cause of action (*Reynolds* v. *Hardington Mandeville Parish Council*, 62 J. P. 363).

Sub-s. (2) (*a*). Before this Act churchwardens of a parish were *ex-officio* overseers by force of 43 Eliz. c. 2, s. 1. They were not, however, overseers of any townships or villages within the parish for which separate overseers were appointed (*Rex* v. *Nantwich*, 16 East, 228; *Reg.* v. *Yorkshire JJ.*, 6 A. & E. 863). The number of overseers, exclusive of churchwardens, was fixed by 43 Eliz. c. 2, s. 1, at not more than four nor less than two. By the Poor Law Amendment Act, 1866 (29 & 30 Vict. c. 113), s. 11, in small parishes only one overseer need be appointed.

Sub-s. (2) (*c*). By the Poor Relief Act, 1815 (55 Geo. 3, c. 137), s. 1, all goods and chattels provided for the use of the poor, and by the Poor Relief Act, 1818 (59 Geo. 3, c. 12), s. 17, all buildings, lands, and hereditaments purchased, hired, or taken on lease by the churchwardens and overseers under that Act, were vested in the overseers or churchwardens and overseers of the parish. Special kinds of property were also vested in the overseers or churchwardens and overseers by various statutes: *e.g.*, vestry rooms, by the Vestries Act, 1850 (13 & 14 Vict. c. 57); parochial offices, by the Parochial Offices Act, 1861 (24 & 25 Vict. c. 125); poor allotments under the Inclosure Act, 1845 (8 & 9 Vict. c. 118), s. 73; lands acquired for allotments and otherwise under the Poor Relief Act, 1831 (1 & 2 Will. 4, c. 42), the Crown Lands Allotments Act, 1831 (1 & 2 Will. 4, c. 59), and other Acts.

concur in making such transfers, if any, as are requisite for giving effect to this enactment. Sect. 5.

VI.—(1) Upon the parish council of a rural parish coming into office, there shall be transferred to that council :—

(*a.*) The powers, duties, and liabilities of the vestry of the parish except— Transfer of certain powers of vestry and other authorities to parish council.

(i.) So far as relates to the affairs of the church or to ecclesiastical charities ; and

(ii.) Any power, duty, or liability transferred by this Act from the vestry to any other authority :

(*b.*) The powers, duties, and liabilities of the churchwardens of the parish, except so far as they relate to the affairs of the church or to charities, or are powers and duties of overseers, but inclusive of the obligations of the churchwardens with respect to maintaining and repairing closed churchyards wherever the expenses of such maintenance and repair are repayable out of the poor rate under the Burial Act, 1855 : Provided that such obligations shall not in the case of any particular parish be deemed to attach, unless or until the churchwardens subsequently to the passing of this Act shall give a certificate, as in the Burial Act, 1855, provided in order to obtain the repayment of such expenses out of the poor rate. 18 & 19 Vict. c. 128.

(*c.*) The powers, duties, and liabilities of the overseers or of the churchwardens and overseers of the parish with respect to—

(i.) Appeals or objections by them in respect of the valuation list, or appeals in respect of the poor rate, or county rate, or the basis of the county rate ; and

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Note.

The obligations of churchwardens with respect to maintaining and repairing closed churchyards are contained in the Burial Act, 1855 (18 & 19 Vict. c. 128), s. 18, as to the interpretation placed upon which see *Reg.* v. *St. John, Westgate, and Elswick Burial Board*, 2 B. & S. 703 ; 31 L. J. Q. B. 15, 205 ; 6 L. T. (N. S.) 504 ; 10 W. R. 77, 606 ; *Reg.* v. *Bishop Wearmouth*, 5 Q. B. D. 67 ; *Reg.* v. *St. Mary, Islington*, 25 Q. B. D. 523 ; 59 L. J. Q. B. 462 ; 63 L. T. 226 ; 39 W. R. 10. Sub-s. (1) (*b*).

Appeals or objections by overseers in respect of the valuation list were regulated by the Union Assessment Committee Act, 1862 (25 & 26 Vict. c. 103), ss. 18, 32. Sub-s. (1) (*c*) (i.).

Appeals in respect of the poor rate were brought by ratepayers, and the overseers were respondents, a position which will now be taken by the parish council. Appeals in respect of the county rate, or the basis of the county rate, could be brought by overseers under the County Rates Act, 1852 (15 & 16 Vict. c. 81), ss. 17—22 ; and in such cases the overseers of the parishes alleged to be underrated or omitted from the rate or basis were respondents.

Where the powers, duties, and liabilities of overseers were

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(ii.) The provision of parish books and of a vestry room or parochial office, parish chest, fire engine, fire escape, or matters relating thereto; and

(iii.) The holding or management of parish property, not being property relating to affairs of the church or held for an ecclesiastical charity, and the holding or management of village greens, or of allotments,

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transferred to a borough council by order of the Local Government Board under s. 33 (1) of this Act, it was held that notice of appeal against a poor rate to the borough council was not a condition precedent to the hearing the appeal. *Reg.* v. *De Grey*, [1900] 1 Q. B. 521; 69 L. J. Q. B. 341; 82 L. T. 324; 48 W. R. 348; 64 J. P. 375; dissenting from *Reg.* v. *Kent JJ.*, 80 L. T. 622.

Note.

Sub-s. (1) (*c*) (i.).

Sub-s. (1) (*c*) (ii.).

Overseers were directed by the Vestries Act, 1818 (58 Geo. 3, c. 69), s. 2, to provide parish books. They are also required to provide and keep various books relating to the poor rate by the General Orders of January 14th, 1867, and June 14th, 1875. They were empowered to provide vestry rooms by the Vestries Act, 1850 (13 & 14 Vict. c. 57); parochial offices by the Parochial Offices Act, 1861 (24 & 25 Vict. c. 125); parish chests by the Parochial Registers Act, 1812 (52 Geo. 3, c. 146), s. 5, the Vestries Act, 1818 (58 Geo. 3, c. 69), s. 6, and the Parochial Offices Act, 1861 (24 & 25 Vict. c. 125), s. 2; and fire engines and fire escapes by the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 29.

Sub-s. (1) (*c*) (iii.).

By the Poor Relief Act, 1818 (59 Geo. 3, c. 12), churchwardens and overseers were empowered to acquire twenty acres of land on which to employ the poor, or which they might let to the poor. The twenty acres were extended to fifty acres by the Poor Relief Act, 1831 (1 & 2 Will. 4, c. 42), which also empowered the churchwardens and overseers to inclose waste or common land in or near the parish for the benefit of the poor of the parish. The Crown Land Allotments Act, 1831 (1 & 2 Will. 4, c. 59), extended these powers of inclosure to wastes of Crown lands. The Allotments Act, 1832 (2 Will. 4, c. 42), applicable to parishes inclosed under any Act of Parliament where allotments for the poor had been awarded, gave the management of such allotments to the trustees of the allotments and the churchwardens and overseers of the parish. By the Inclosure Act, 1845 (8 & 9 Vict. c. 118), ss. 30, 31, 73, allotments may, upon any inclosure, be made for the purpose of exercise and recreation of the inhabitants of the neighbourhood, and for the labouring poor, and such allotments are to be made to the churchwardens and overseers. The allotments for the labouring poor are by sect. 108 to be managed by allotment wardens, of whom a churchwarden shall be one. By the Inclosure Act, 1857 (20 & 21 Vict. c. 31), s. 12, extended by the Commons Act, 1876 (39 & 40 Vict. c. 56), s. 29, churchwardens and overseers were empowered to take proceedings to prevent nuisances in town and village greens and on land allotted and awarded upon any inclosure as a place for exercise and recreation. The Commons Act, 1876 (39 & 40 Vict. c. 56), s. 28, imposes a duty on churchwardens and overseers, when trustees of recreation grounds, of making reports to the Board of Agriculture in respect of the recreation grounds and field gardens under their management. The other Allotment and Inclosure Acts have no special relation to powers and duties of churchwardens and overseers.

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whether for recreation grounds or for gardens or otherwise for the benefit of the inhabitants or any of them;

(*d.*) The powers exerciseable with the approval of the Local Government Board by the board of guardians for the poor law union comprising the parish in respect of the sale, exchange, or letting of any parish property.

(2) A parish council shall have the same power of making any complaint or representation as to unhealthy dwellings or obstructive buildings as is conferred on inhabitant householders by the Housing of the Working Classes Act, 1890, but without prejudice to the powers of such householders. 53 & 54 Vict. c. 70.

(3) A parish council shall have the same power of making a representation with respect to allotments, and of applying for the election of allotment managers, as is conferred on Parliamentary electors by the Allotments Act, 1887, or the Allotments Act, 1890, but without prejudice to the powers of those electors. 50 & 51 Vict. c. 48. 53 & 54 Vict. c. 65.

(4) Where any Act constitutes any persons wardens for allotments, or authorizes or requires the appointment or election of any wardens, committee or managers for the purpose of allotments, then, after a parish council for the parish interested in such allotments comes into office, the powers and duties of the wardens, committee, or managers shall be exercised and performed by the parish council, and it shall not be necessary to make the said appointment or to hold the said election, and for the purpose of section sixteen of the Small Holdings Act, 1892, two members of the parish council shall be substituted for allotment managers or persons appointed as allotment managers. 55 & 56 Vict. c. 31.

Transfer of powers under adoptive Acts.

VII.—(1) As from the appointed day, in every rural parish the parish meeting shall, exclusively, have the power of adopting any of the following Acts, inclusive of any Acts amending the same (all which Acts are in this Act referred to as "the adoptive Acts") namely,—

(*a.*) The Lighting and Watching Act, 1833; 3 & 4 Will. 4, c. 90.

(*b.*) The Baths and Washhouses Acts, 1846 to 1882; 9 & 10 Vict. c. 74. 45 & 46 Vict. c. 30.

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Note.

Sub-s. (1) (*d*).

The powers referred to in sub-sect. (1) (*d*) of this section are contained in the Union and Parish Property Act, 1835 (5 & 6 Will. 4, c. 69), and the Parish Property and Debts Act, 1842 (5 & 6 Vict. c. 18).

Sub-s. (4).

Wardens for allotments are constituted under the Inclosure Act, 1845 (8 & 9 Vict. c. 118), s. 78. Acts requiring the appointment or election of any wardens, committee, or managers of allotments are the Poor Allotments Management Act, 1873 (36 & 37 Vict. c. 19), s. 3, the Allotments Act, 1887 (50 & 51 Vict. c. 48), ss. 6 (3), 9, and the Allotments Act, 1890 (53 & 54 Vict. c. 65), s. 2 (2).

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(*c.*) The Burial Acts, 1852 to 1885;

15 & 16 Vict. c. 85.

(*d.*) The Public Improvements Act, 1860;

48 & 49 Vict. c. 21.

(*e.*) The Public Libraries Act, 1892.

23 & 24 Vict. c. 30.

55 & 56 Vict. c. 53.

(2) Where under any of the said Acts a particular majority is required for the adoption or abandonment of the Act, or for any matter under such Act, the like majority of the parish meeting or, if a poll is taken, of the parochial electors, shall be required, and where under any of the said Acts the opinion of the voters is to be ascertained by voting papers, the opinion of the parochial electors shall be ascertained by a poll taken in manner provided by this Act.

(3) Where under any of the said Acts the consent or approval of, or other act on the part of, the vestry of a rural parish is required in relation to any expense or rate, the parish meeting shall be substituted for the vestry, and for this purpose the expression "vestry" shall include any meeting of ratepayers or voters.

(4) Where there is power to adopt any of the adoptive Acts for a part only of a rural parish, the Act may be adopted by a parish meeting held for that part.

(5) Where the area under any existing authority acting within a rural parish in the execution of any of the adoptive Acts is co-extensive with the parish, all powers, duties, and liabilities of that authority shall, on the parish council coming into office, be transferred to that council.

(6) This Act shall not alter the incidence of charge of any rate levied to defray expenses incurred under any of the adoptive Acts, and any such rate shall be made and charged as heretofore, and any property applicable to the payment of such expenses shall continue to be so applicable.

(7) When any of the adoptive Acts is adopted for the whole or part of a rural parish after the appointed day, and the parish has a parish council, the parish council shall be the authority for the execution of the Act

(8) For the purposes of this Act the passing of a resolution to provide a burial ground under the Burial Acts, 1852 to 1885, shall be deemed an adoption of those Acts.

Additional powers of parish council.

VIII.—(1) A parish council shall have the following additional powers, namely, power—

(*a.*) To provide or acquire buildings for public offices and for meetings and for any purposes connected with parish business or with the powers or duties of the parish council or parish meeting; and

(*b.*) To provide or acquire land for such buildings and for a recreation ground and for public walks; and

39 & 40 Vict. c. 56.

(*c.*) To apply to the Board of Agriculture under section nine of the Commons Act, 1876; and

(*d.*) To exercise with respect to any recreation ground, village green, open space, or public walk, which is for the time being under their control, or to the expense of which they have contributed, such powers as may be exercised by an urban authority under section one hundred and sixty-four of the Public Health Act, 1875, or section forty-four of the Public Health Acts Amendment Act, 1890, in relation to recreation grounds or public walks, and sections one hundred and eighty-three to one hundred and eighty-six of the Public Health Act, 1875, shall apply accordingly as if the parish council were a local authority within the meaning of those sections; and

38 & 39 Vict. c. 55.

53 & 54 Vict. c. 59.

(*e.*) To utilize any well, spring, or stream within their parish and provide facilities for obtaining water therefrom, but so as not to interfere with the rights of any corporation or person; and

(*f.*) To deal with any pond, pool, open ditch, drain, or place containing, or used for the collection of, any drainage, filth, stagnant water, or matter likely to be prejudicial to health, by draining, cleansing, covering it, or otherwise preventing it from being prejudicial to health, but so as not to interfere with any private right or the sewage or drainage works of any local authority; and

(*g.*) To acquire by agreement any right of way, whether within their parish or an adjoining parish, the acquisition of which is beneficial to the inhabitants of the parish or any part thereof; and

(*h.*) To accept and hold any gifts of property, real or personal, for the benefit of the inhabitants of the parish or any part thereof; and

(*i.*) To execute any works (including works of maintenance or improvement) incidental to or consequential on the exercise of any of the foregoing powers, or in relation to any parish property, not being property relating to affairs of the church or held for an ecclesiastical charity; and

(*k.*) To contribute towards the expense of doing any of the things above mentioned, or to agree or combine with any other parish council to do or contribute towards the expense of doing any of the things above mentioned.

(2) A parish council may let, or, with the consent of the parish meeting, sell or exchange, any land or buildings vested in the council, but the power of letting for more than a year and the power of sale or exchange shall not be exercised, in the case of property which has been acquired at the expense of any rate, or is at the passing of this Act applied in aid of any rate, or would but for want of income be so applied, without the consent of the Local Government Board, or in any other case

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without such consent or approval as is required under the Charitable Trusts Acts, 1853 to 1891, for the sale of charity estates, provided that the consent or approval required under those Acts shall not be required for the letting for allotments of land vested in the parish council.

(3) Nothing in this section shall derogate from any obligation of a district council with respect to the supply of water or the execution of sanitary works.

(4) Notice of any application to the Board of Agriculture in relation to a common shall be served upon the council of every parish in which any part of the common to which the application relates is situate.

Powers for acquisition of land.

IX.—(1) For the purpose of the acquisition of land by a parish council the Lands Clauses Acts shall be incorporated with this Act, except the provisions of those Acts with respect to the purchase and taking of land otherwise than by agreement, and section one hundred and seventy-eight of the Public Health Act, 1875, shall apply as if the parish council were referred to therein.

38 & 39 Vict. c. 55.

(2) If a parish council are unable to acquire by agreement and on reasonable terms suitable land for any purpose for which they are authorized to acquire it, they may represent the case to the county council, and the county council shall inquire into the representation.

(3) If on any such representation, or on any proceeding under the Allotments Acts, 1887 and 1890, a county council are satisfied that suitable land for the said purpose of the parish council or for the purpose of allotments (as the case may be), cannot be acquired on reasonable terms by voluntary agreement, and that the circumstances are such as to justify the county council in proceeding under this section, they shall cause such public inquiry to be made in the parish, and such notice to be given both in the parish and to the owners, lessees, and occupiers of the land proposed to be taken as may be prescribed, and all persons interested shall be permitted to attend at the inquiry, and to support or oppose the taking of the land.

50 & 51 Vict. c. 48.
53 & 54 Vict. c. 65.

(4) After the completion of the inquiry, and considering all objections made by any persons interested, the county council may make an order for putting in force, as respects the said land or any part thereof, the provisions of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement.

(5) If the county council refuse to make any such order, the parish council, or, if the proceeding is taken on the petition of the district council, then the district council, may petition the Local Government Board, and that board after local inquiry may, if they think proper, make the order, and this section

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shall apply as if the order had been made by the county council. Any order made under this sub-section overruling the decision of the county council shall be laid before Parliament by the Local Government Board.

(6) A copy of any order made under this section shall be served in the prescribed manner, together with a statement that the order will become final and have the effect of an Act of Parliament, unless within the prescribed period a memorial by some person interested is presented to the Local Government Board praying that the order shall not become law without further inquiry.

(7) The order shall be deposited with the Local Government Board, who shall inquire whether the provisions of this section and the prescribed regulations have been in all respects complied with; and if the board are satisfied that this has been done, then, after the prescribed period—

(*a.*) If no memorial has been presented, or if every such memorial has been withdrawn, the board shall, without further inquiry, confirm the order:

(*b.*) If a memorial has been presented, the Local Government Board shall proceed to hold a local inquiry, and shall, after such inquiry, either confirm, with or without amendment, or disallow the order:

(*c.*) Upon any such confirmation the order, and if amended as so amended, shall become final and have the effect of an Act of Parliament, and the confirmation by the Local Government Board shall be conclusive evidence that the requirements of this Act have been complied with, and that the order has been duly made, and is within the powers of this Act.

(8) Sections two hundred and ninety-three to two hundred and ninety-six, and sub-sections (1) and (2) of section two hundred and ninety-seven of the Public Health Act, 1875, shall apply to a local inquiry held by the Local Government Board for the purposes of this section, as if those sections and sub-sections were herein re-enacted, and in terms made applicable to such inquiry.

(9) The order shall be carried into effect, when made on the petition of a district council, by that council, and in any other case by the county council.

(10) Any order made under this section for the purpose of the purchase of land otherwise than by agreement shall incorporate the Lands Clauses Acts and sections seventy-seven to eighty-five of the Railways Clauses Consolidation Act, 1845, with the necessary adaptations, but any question of disputed compensation shall be dealt with in the manner provided by section three of the Allotments Act, 1887, and provisoes (*a*), (*b*), and (*c*) of sub-section (4) of that section are incorporated with this section and shall apply accordingly:

8 & 9 Vict. c. 20.

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Provided that in determining the amount of disputed compensation, the arbitrator shall not make any additional allowance in respect of the purchase being compulsory.

(11) At any inquiry or arbitration held under this section the person or persons holding the inquiry or arbitration shall hear any authorities or parties interested by themselves or their agents, and shall hear witnesses, but shall not, except in such cases as may be prescribed, hear counsel or expert witnesses.

(12) The person or persons holding a public inquiry for the purposes of this section on behalf of a county council shall have the same powers as an inspector or inspectors of the Local Government Board when holding a local inquiry; and section two hundred and ninety-four of the Public Health Act, 1875, shall apply to the costs of inquiries held by the county council for the purpose of this section as if the county council were substituted for the Local Government Board.

(13) Sub-section (2) of section two, if the land is taken for allotments, and, whether it is or is not so taken, sub-sections (5), (6), (7), and (8) of section three of the Allotments Act, 1887, and section eleven of that Act, and section three of the Allotments Act, 1890, are incorporated with this section, and shall, with the prescribed adaptations, apply accordingly.

50 & 51 Vict. c. 48.
53 & 54 Vict. c. 65.

(14) Where the land is acquired otherwise than for allotments, it shall be assured to the parish council; and any land purchased by a county council for allotments under the Allotments Acts, 1887 and 1890, and this Act, or any of them, shall be assured to the parish council, and in that case sections five to eight of the Allotments Act, 1887, shall apply as if the parish council were the sanitary authority.

(15) Nothing in this section shall authorize the parish council to acquire otherwise than by agreement any land for the purpose of any supply of water, or of any right of way.

(16) In this section the expression "allotments" includes common pasture where authorized to be acquired under the Allotments Act, 1887.

(17) Where, under the Allotments Act, 1890, the Allotments Act, 1887, applies to the purchase of land by the county council, that Act shall apply as amended by this section, and the parish council shall have the like power of petitioning the county council as is given to six Parliamentary electors by section two of the Allotments Act, 1890.

(18) This section shall apply to a county borough with the necessary modifications, and in particular with the modification that the order shall be both made and confirmed by the Local Government Board and shall be carried into effect by the council of the county borough.

(19) The expenses of a county council incurred under this section shall be defrayed in like manner as in the case of a local inquiry by a county council under this Act.

Hiring of land for allotments.

X.—(1) The parish council shall have power to hire land for allotments, and if they are satisfied that allotments are required, and are unable to hire by agreement on reasonable terms suitable land for allotments, they shall represent the case to the county council, and the county council may make an order authorizing the parish council to hire compulsorily for allotments, for a period not less than fourteen years nor more than thirty-five years, such land in or near the parish as is specified in the order, and the order shall, as respects confirmation and otherwise, be subject to the like provisions as if it were an order of the county council made under the last preceding section of this Act, and that section shall apply as if it were herein re-enacted with the substitution of "hiring" for "purchase" and with the other necessary modifications.

(2) A single arbitrator, who shall be appointed in accordance with the provisions of section three of the Allotments Act, 1887, and to whom the provisions of that section shall apply, shall have power to determine any question—

(*a.*) As to the terms and conditions of the hiring; or

(*b.*) As to the amount of compensation for severance; or

(*c.*) As to the compensation to any tenant upon the determination of his tenancy; or

(*d.*) As to the apportionment of the rent between the land taken by the parish council and the land not taken from the tenant; or

(*e.*) As to any other matter incidental to the hiring of the land by the council, or the surrender thereof at the end of their tenancy;

but the arbitrator in fixing the rent shall not make any addition in respect of compulsory hiring.

(3) The arbitrator, in fixing rent or other compensation, shall take into consideration all the circumstances connected with the land, and the use to which it might otherwise be put by the owner during the term of hiring, and any depreciation of the value to the tenant of the residue of his holding caused by the withdrawal from the holding of the land hired by the parish council.

(4) Any compensation awarded to a tenant in respect of any depreciation of the value to him of the residue of his holding caused by the withdrawal from the holding of the land hired by the parish council shall as far as possible be provided for by taking such compensation into account in fixing, as the case may require, the rent to be paid by the parish council for the land hired by them, and the apportioned rent, if any, to be

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paid by the tenant for that portion of the holding which is not hired by the parish council.

(5) The award of the arbitrator or a copy thereof, together with a report signed by him as to the condition of the land taken by the parish council, shall be deposited and preserved with the public books, writings, and papers of the parish, and the owner for the time being of the land shall at all reasonable times be at liberty to inspect the same and to take copies thereof.

(6) Save as herein-after mentioned, sections five to eight of the Allotments Act, 1887, shall apply to any allotment hired by a parish council in like manner as if that council were the sanitary authority and also the allotment managers:

Provided that the parish council—

(*a.*) May let to one person an allotment or allotments exceeding one acre, but, if the land is hired compulsorily, not exceeding in the whole four acres of pasture or one acre of arable and three acres of pasture; and

(*b.*) May permit to be erected on the allotment any stable, cowhouse, or barn; and

(*c.*) Shall not break up, or permit to be broken up, any permanent pasture, without the assent in writing of the landlord.

(7) On the determination of any tenancy created by compulsory hiring a single arbitrator who shall be appointed in accordance with the provisions of section three of the Allotments Act, 1887, shall have power to determine as to the amount due by the landlord for compensation for improvements, or by the parish council for depreciation, but such compensation shall be assessed in accordance with the provisions of the Agricultural Holdings (England) Act, 1883.

46 & 47 Vict. c. 61.

(8) The order for compulsory hiring may apply, with the prescribed adaptations, such of the provisions of the Lands Clauses Acts (including those relating to the acquisition of land otherwise than by agreement) as appear to the county council or Local Government Board sufficient for carrying into effect the order, and for the protection of the persons interested in the land and of the parish council.

(9) Nothing in this section shall authorize the compulsory hiring of any mines or minerals, or confer any right to take, sell, or carry away any gravel, sand, or clay, or authorize the hiring of any land which is already owned or occupied as a small holding within the meaning of the Small Holdings Act, 1892.

55 & 56 Vict. c. 31.

(10) If the land hired under this section shall at any time during the tenancy thereof by the parish council be shown to the satisfaction of the county council to be required by the landlord for the purpose of working and getting the mines, minerals, or surface minerals thereunder, or for any road or

Sect. 10.

work to be used in connexion with such working or getting, it shall be lawful for the landlord of such land to resume possession thereof upon giving to the parish council twelve calendar months' previous notice in writing of his intention so to do, and upon such resumption the landlord shall pay to the parish council and to the allotment holders of the land for the time being such sum by way of compensation for the loss of such land for the purposes of allotments as may be agreed upon by the landlord and the parish council, or in default of such agreement as may be awarded by a single arbitrator to be appointed in accordance with the provisions of section three of the Allotments Act, 1887, and the provisions of that section shall apply to such arbitrator.

The word "landlord" in this sub-section means the person for the time being entitled to receive the rent of the land hired by the parish council.

(11) The Local Government Board shall annually lay before Parliament a report of any proceedings under this and the preceding section.

Restrictions on expenditure.

XI.—(1) A parish council shall not, without the consent of a parish meeting, incur expenses or liabilities which will involve a rate exceeding threepence in the pound for any local financial year, or which will involve a loan.

(2) A parish council shall not, without the approval of the county council, incur any expense or liability which will involve a loan.

(3) The sum raised in any local financial year by a parish council for their expenses (other than expenses under the adoptive Acts) shall not exceed a sum equal to a rate of sixpence in the pound on the rateable value of the parish at the commencement of the year, and for the purpose of this enactment the expression "expenses" includes any annual charge, whether of principal or interest, in respect of any loan.

(4) Subject to the provisions of this Act, the expenses of a parish council and of a parish meeting, including the expenses of any poll, shall be paid out of the poor rate; and where there is a parish council that council shall pay the said expenses of the parish meeting of the parish; and the parish council,

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Sect. 11. Note. Sub-s. (4).

The powers which enable a board of guardians to obtain contributions to their common fund are conferred by the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 28. The procedure relative to the preparation and serving of contribution orders is regulated by General Orders of April 22nd, 1842, art. 5 (2), and February 26th, 1866, arts. 2, 3. The mode of enforcing payment of such orders is provided by the Poor Rate Act, 1839 (2 & 3 Vict. c. 84), s. 1; the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 63; the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103), s. 7; and the Poor Law Amendment Act, 1851 (14 & 15 Vict. c. 105), s. 9.

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and where there is no parish council the chairman of the parish meeting, shall, for the purpose of obtaining payment of such expenses, have the same powers as a board of guardians have for the purpose of obtaining contributions to their common fund.

(5) The demand note for any rate levied for defraying the expenses of a parish council or a parish meeting, together with other expenses, shall state in the prescribed form the proportion of the rate levied for the expenses of the council or meeting, and the proportion (if any) levied for the purpose of any of the adoptive Acts.

Borrowing by parish council.

XII.—(1) A parish council for any of the following purposes, that is to say—

(*a.*) For purchasing any land, or building any buildings, which the council are authorized to purchase or build; and

(*b.*) For any purpose for which the council are authorized to borrow under any of the adoptive Acts; and

(*c.*) For any permanent work or other thing which the council are authorized to execute or do, and the cost of which ought, in the opinion of the county council and the Local Government Board, to be spread over a term of years;

may, with the consent of the county council and the Local Government Board, borrow money in like manner and subject to the like conditions as a local authority may borrow for defraying expenses incurred in the execution of the Public Health Acts, and sections two hundred and thirty-three, two hundred and thirty-four, and two hundred and thirty-six to two hundred and thirty-nine of the Public Health Act, 1875, shall apply accordingly, except that the money shall be borrowed on the security of the poor rate and of the whole or part of the revenues of the parish council, and except that as respects the limit of the sum to be borrowed, one-half of the assessable value shall be substituted for the assessable value for two years.

38 & 39 Vict. c. 55.

(2) A county council may lend to a parish council any money which the parish council are authorized to borrow, and

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Sect. 12. Note. Sub-s. (1).

Money may be borrowed by the authority charged with the execution of the Act on the security of the poor rates or of rates to be raised with and as part of the poor rates under the following adoptive Acts: The Baths and Washhouses Act, 1846 (9 & 10 Vict. c. 74), ss. 21—23; the Burial Acts (15 & 16 Vict. c. 85), ss. 20, 21; 17 & 18 Vict. c. 87, ss. 4, 5; 18 & 19 Vict. c. 128, s. 6; 20 & 21 Vict. c. 81, ss. 19—22; the Public Improvement Act, 1860 (23 & 24 Vict. c. 30), s. 3 (2); and the Public Libraries Act, 1892 (55 & 56 Vict. c. 53), ss. 18, 19.

Sub-s. (2).

The borrowing powers of a county council are conferred by the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 69.

may, if necessary, without the sanction of the Local Government Board, and irrespectively of any limit of borrowing, raise the money by loan, subject to the like conditions and in the like manner as any other loan for the execution of their duties, and subject to any further conditions which the Local Government Board may by general or special order impose.

(3) A parish council shall not borrow for the purposes of any of the adoptive Acts otherwise than in accordance with this Act, but the charge for the purpose of any of the adoptive Acts shall ultimately be on the rate applicable to the purposes of that Act.

Footpaths and roads.

XIII.—(1) The consent of the parish council and of the district council shall be required for the stopping, in whole or in part, or diversion, of a public right of way within a rural parish, and the consent of the parish council shall be required for a declaration that a highway in a rural parish is unnecessary for public use and not repairable at the public expense, and the parish council shall give public notice of a resolution to give any such consent, and the resolution shall not operate—

(*a.*) Unless it is confirmed by the parish council at a meeting held not less than two months after the public notice is given; nor

(*b.*) If a parish meeting held before the confirmation resolve that the consent ought not to be given.

(2) A parish council may, subject to the provisions of this Act with respect to restrictions on expenditure, undertake the repair and maintenance of all or any of the public footpaths within their parish, not being footpaths at the side of a public road, but this power shall not nor shall the exercise thereof relieve any other authority or person from any liability with respect to such repair or maintenance.

Public property and charities.

XIV.—(1) Where trustees hold any property for the purposes of a public recreation ground or of public meetings, or of allotments, whether under Inclosure Acts or otherwise, for the benefit of the inhabitants of a rural parish, or any of them, or for any public purpose connected with a rural parish, except for an ecclesiastical charity, they may, with the approval of the Charity Commissioners, transfer the property to the parish council of the parish, or to persons appointed by that council, and the parish council, if they accept the transfer, or their appointees, shall hold the property on the trusts and subject to the conditions on which the trustees held the same.

(2) Where overseers of a rural parish as such are, either alone or jointly with any other persons, trustees of any parochial charity, such number of the councillors of the parish or other persons not exceeding the number of the overseer trustees, as the council may appoint, shall be trustees in

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their place, and, when the charity is not an ecclesiastical charity, this enactment shall apply as if the churchwardens as such were specified therein as well as the overseers.

(3) Where the governing body of a parochial charity other than an ecclesiastical charity does not include any persons elected by the ratepayers or parochial electors or inhabitants of the parish, or appointed by the parish council or parish meeting, the parish council may appoint additional members of that governing body not exceeding the number allowed by the Charity Commissioners, in each case; and if the management of any such charity is vested in a sole trustee, the number of trustees may, with the approval of the Charity Commissioners, be increased to three, one of whom may be nominated by such sole trustee and one by the parish council or parish meeting. Nothing in this sub-section shall prejudicially affect the power or authority of the Charity Commissioners, under any of the Acts relating to charities, to settle or alter schemes for the better administration of any charity.

(4) Where the vestry of a rural parish are entitled, under the trusts of a charity other than an ecclesiastical charity, to appoint any trustees or beneficiaries of the charity, the appointment shall be made by the parish council of the parish, or in the case of beneficiaries, by persons appointed by the parish council.

(5) The draft of every scheme relating to a charity, not being an ecclesiastical charity, which affects a rural parish, shall, on or before the publication of the notice of the proposal to make an order for such scheme in accordance with section six of the Charitable Trusts Acts, 1860, be communicated to the council of the parish, and where there is no parish council to the chairman of the parish meeting, and, in the case of a council, the council may, subject to the provisions of this Act with respect to restrictions on expenditure, and to the consent of the parish meeting, either support or oppose the scheme, and shall for that purpose have the same right as any inhabitants of a place directly affected by the scheme.

23 & 24 Vict. c. 136.

(6) The accounts of all parochial charities, not being ecclesiastical charities, shall annually be laid before the parish meeting of any parish affected thereby, and the Charitable Trusts Amendment Act, 1855, shall apply with the substitution in section forty-four of the parish meeting for the vestry, and of the chairman of the parish meeting for the churchwardens, and the names of the beneficiaries of dole charities shall be published annually in such form as the parish council, or where there is no parish council the parish meeting, think fit.

18 & 19 Vict. c. 124.

(7) The term of office of a trustee appointed under this section shall be four years, but of the trustees first appointed as aforesaid one-half, as nearly as may be, to be determined by

lot, shall go out of office at the end of two years from the date of their appointment, but shall be eligible for re-appointment. Sect. 14.

(8) The provisions of this section with respect to the appointment of trustees, except so far as the appointment is transferred from the vestry, shall not apply to any charity until the expiration of forty years from the date of the foundation thereof, or, in the case of a charity founded before the passing of this Act by a donor or by several donors any one of whom is living at the passing of this Act, until the expiration of forty years from the passing of this Act, unless with the consent of the surviving donor or donors.

(9) Whilst a person is trustee of a parochial charity he shall not, nor shall his wife or any of his children, receive any benefit from the charity.

Delegated powers of parish councils.

XV. A rural district council may delegate to a parish council any power which may be delegated to a parochial committee under the Public Health Acts, and thereupon those Acts shall apply as if the parish council were a parochial committee, and where such district council appoint a parochial committee consisting partly of members of the district council and partly of other persons, those other persons shall, where there is a parish council, be or be selected from the members of the parish council.

Complaint by parish council of default of district council.

XVI.—(1) Where a parish council resolve that a rural district council ought to have provided the parish with sufficient sewers, or to have maintained existing sewers, or to have provided the parish with a supply of water in cases where danger arises to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply of water, and a proper supply can be got at a reasonable cost, or to have enforced with regard to the parish any provisions of the Public Health Acts which it is their duty to enforce, and have failed so to do, or that they have failed to maintain and repair any highway in a good and substantial manner, the parish council may complain to the county council, and the county council, if satisfied after due inquiry that the district council have so failed as respects the subject matter of the complaint, may resolve that the duties and powers of the district council for the purpose of the matter complained of shall be transferred to the county council, and they shall be transferred accordingly.

(2) Upon any complaint under this section the county council may, instead of resolving that the duties and powers of the rural district council be transferred to them, make such an order as is mentioned in section two hundred and

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Powers may be delegated to parochial committees by rural sanitary authorities under sects. 201, 202 of the Public Health Act, 1875. Sect. 15. Note.

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38 & 39 Vict. c. 55.

ninety-nine of the Public Health Act, 1875, and may appoint a person to perform the duty mentioned in the order, and upon such appointment sections two hundred and ninety-nine to three hundred and two of the Public Health Act, 1875, shall apply with the substitution of the county council for the Local Government Board.

(3) Where a rural district council have determined to adopt plans for the sewerage or water supply of any contributory place within the district, they shall give notice thereof to the parish council of any parish for which the works are to be provided before any contract is entered into by them for the execution of the works.

Parish officers and parish documents.

XVII.—(1) A parish council may appoint one of their number to act as clerk of the council without remuneration.

(2) If no member of the parish council is appointed so to act, and there is an assistant overseer, he, or such one of the assistant overseers, if more than one, as may be appointed by the council, shall be the clerk of the parish council, and the performance of his duties as such shall be taken into account in determining his salary.

(3) If there is no assistant overseer, the parish council may appoint a collector of poor rates, or some other fit person, to be their clerk, with such remuneration as they may think fit.

(4) A parish council shall not appoint to the office of vestry clerk.

(5) When a parish council act as a parochial committee by delegation from the district council they shall have the services of the clerk of the district council, unless the district council otherwise direct.

(6) The parish council may appoint one of their own number or some other person to act as treasurer without remuneration, and the treasurer shall give such security as may be required by regulations of the county council.

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Note.

Sub-s. (1). The provision of this sub-section is subject to the provisions in sect. 81 (2), (4), *infra*, as to existing vestry clerks becoming clerks of parish councils.

Sub-s. (2). Assistant overseers were appointed and their salaries fixed under 59 Geo. 3, c. 12, s. 7. In rural parishes and in parishes in urban districts, on the councils of which powers of a parish council have been conferred under sect. 33 (1), *infra*, the appointment is now made and the salary fixed by the parish or urban council as the case may be.

Sub-s. (3). Paid collectors of poor rates are appointed under the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 62.

Sub-s. (4). In parishes with a population exceeding 2,000 a vestry clerk could be appointed under the Vestries Act, 1850 (13 & 14 Vict. c. 57), and in any parish in which that Act was not in force a vestry clerk could be appointed under the common law. In rural parishes it seems that a vestry clerk cannot now be appointed at all.

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(7) All documents required by statute or by standing orders of Parliament to be deposited with the parish clerk of a rural parish shall, after the election of a parish council, be deposited with the clerk, or, if there is none, with the chairman, of the parish council, and the enactments with respect to the inspection of, and taking copies of, and extracts from, any such documents shall apply as if the clerk, or chairman, as the case may be, were mentioned therein.

(8) The custody of the registers of baptisms, marriages, and burials, and of all other books and documents containing entries wholly or partly relating to the affairs of the Church or to ecclesiastical charities, except documents directed by law to be kept with the public books, writings, and papers of the parish, shall remain as provided by the existing law unaffected by this Act. All other public books, writings, and papers of the parish, and all documents directed by law to be kept therewith, shall either remain in their existing custody, or be deposited in such custody as the parish council may direct. The incumbent and churchwardens on the one part, and the parish council on the other, shall have reasonable access to all such books, documents, writings, and papers, as are referred to in this sub-section, and any difference as to custody or access shall be determined by the county council.

(9) Every county council shall from time to time inquire into the manner in which the public books, writings, papers, and documents under the control of the parish council or parish meeting, are kept with a view to the proper preservation thereof, and shall make such orders as they think necessary for such preservation, and those orders shall be complied with by the parish council or parish meeting.

Parish wards.

XVIII.—(1) A county council may, on application by the parish council, or not less than one-tenth of the parochial electors of a parish, and on being satisfied that the area or population of the parish is so large, or different parts of the population so situated, as to make a single parish meeting for the election of councillors impracticable or inconvenient, or that it is desirable for any reason that certain parts of the parish should be separately represented on the council, order

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Sect. 17. Note. Sub-s. (7).

The deposit with parish clerks of plans, &c., of proposed works, the subject of bills in Parliament, is regulated by the Parliamentary Documents Deposit Act, 1837 (7 Will. 4 & 1 Vict. c. 83), and the Railways Clauses Act, 1845 (8 & 9 Vict. c. 20), ss. 8, 9.

Sub-s. (8).

The custody of parish documents generally is provided for by the Vestries Act, 1818 (58 Geo. 3, c. 69), s. 6. A copy of byelaws made by a rural district council under the Public Health Act, 1875, and relating to the parish is to be kept with the public documents of the parish (38 & 39 Vict. c. 55, s. 185); as also is the award of an arbitrator under sect. 10 (5) of this Act.

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that the parish be divided for the purpose of electing parish councillors into wards, to be called parish wards, with such boundaries and such number of councillors for each ward as may be provided by the order.

(2) In the division of a parish into wards regard shall be had to the population according to the last published census for the time being, and to the evidence of any considerable change of population since that census, and to area and to the distribution and pursuits of the population, and to all the circumstances of the case.

(3) Any such order may be revoked or varied by the county council on application by either the council or not less than one-tenth of the parochial electors of the parish, but while in force shall have effect as if enacted by this Act.

(4) In a parish divided into parish wards there shall be a separate election of parish councillors for each ward.

Provisions as to small parishes.

XIX. In a rural parish not having a separate parish council, the following provisions shall, as from the appointed day, but subject to provisions made by a grouping order, if the parish is grouped with some other parish or parishes, have effect:—

(1) At the annual assembly the parish meeting shall choose a chairman for the year;

(2) The parish meeting shall assemble not less than twice in each year;

(3) The parish meeting may appoint a committee of their own number for any purposes which in the opinion of the parish meeting, would be better regulated and managed by means of such a committee, and all the acts of the committee shall be submitted to the parish meeting for their approval;

(4) All powers, duties, and liabilities of the vestry shall, except so far as they relate to the affairs of the Church or to ecclesiastical charities, or are transferred by this Act to any other authority, be transferred to the parish meeting;

(5) The power and the duty of appointing the overseers, and of notifying the appointment, and the power of appointing and revoking the appointment of an assistant overseer, shall be transferred to and vest in the parish meeting and the power given by this Act to a parish council of appointing trustees of a charity in the place of overseers or churchwardens, shall vest in the parish meeting;

(6) The chairman of the parish meeting and the overseers of the parish shall be a body corporate by the name of the chairman and overseers of the parish, and shall have perpetual succession, and may hold land for the

Sect. 19.

purposes of the parish without licence in mortmain; but shall in all respects act in manner directed by the parish meeting, and any act of such body corporate shall be executed under the hands, or if an instrument under seal is required under the hands and seals, of the said chairman and overseers;

(7) The legal interest in all property which under this Act would, if there were a parish council, be vested on the appointed day in the parish council shall vest in the said body corporate of the chairman and overseers of the parish, subject to all trusts and liabilities affecting the same, and all persons concerned shall make or concur in making such transfers (if any) as are requisite to give effect to this enactment;

(8) The provisions of this Act with respect to the stopping or diversion of a public right of way, or the declaring of a highway to be unnecessary and not repairable at the public expense, and with respect to a complaint to a county council of a default by a district council, shall apply, with the substitution of the parish meeting for the parish council;

(9) A rate levied for defraying the expenses of the parish meeting (when added to expenses under any of the adoptive Acts) shall not exceed sixpence in the pound in any local financial year;

(10) On the application of the parish meeting the county council may confer on that meeting any of the powers conferred on a parish council by this Act;

(11) Any act of the parish meeting may be signified by an instrument executed at the meeting under the hands, or, if an instrument under seal is required under the hands and seals, of the chairman presiding at the meeting and two other parochial electors present at the meeting.

## PART II.

### GUARDIANS AND DISTRICT COUNCILS.

Election and qualification of guardians.

XX. As from the appointed day the following provisions shall apply to boards of guardians:—

(1) There shall be no *ex-officio* or nominated guardians:

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Sect. 20. Note. Sub-s. (1).

Justices were *ex-officio* guardians under the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 38, as amended by the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 24. Guardians were nominated to metropolitan boards by the Local Government Board under the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), s. 79, which section is repealed by this Act.

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(2) A person shall not be qualified to be elected or to be a guardian for a poor law union unless he is a parochial elector of some parish within the union, or has during the whole of the twelve months preceding the election resided in the union, or in the case of a guardian for a parish wholly or partly situate within the area of a borough, whether a county borough or not, is qualified to be elected a councillor for that borough, and no person shall be disqualified by sex or marriage for being elected or being a guardian. So much of any enactment, whether in a public general or local and personal Act, as relates to the qualification of a guardian shall be repealed:

(3) The parochial electors of a parish shall be the electors of the guardians for the parish, and, if the parish is divided into wards for the election of guardians, the electors of the guardians for each ward shall be such of the parochial electors as are registered in respect of qualifications within the ward:

(4) Each elector may give one vote and no more for each of any number of persons not exceeding the number to be elected:

(5) The election shall, subject to the provisions of this Act, be conducted according to rules framed under this Act by the Local Government Board:

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Note. The qualification of a councillor of a borough is regulated by the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), ss. 11, 12.

Sub-s. (2). The provisions relating to the qualification of a guardian hereby repealed are contained in the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 38, the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), s. 79, and certain local Acts.

Sub-s. (3). The parochial electors are the persons registered as provided by sects. 2 (1) and 44 (1) of this Act.

A parish may be divided into wards by the Local Government Board under the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 12, or by the county council under sect. 60 (1) of this Act.

Sub-s. (4). This provision takes the place of the system of plural voting under the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 14, which was formerly used in the election of guardians.

Sub-s. (5). The rules of the Local Government Board as to the election of guardians are contained in three General Orders: The "Guardians (Outside London) Election Order, 1898," dated January 1st, 1898, and applicable to the election of guardians in urban districts outside London; the "Guardians (London) Election Order, 1898," dated January 21st, 1898, and applicable to the election of guardians in London; and the "Rural District Councillors Election Order, 1898," dated January 1st, 1898, and applicable to the election of district councillors who will be the guardians in rural districts for the parishes or areas for which they were elected district councillors.

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(6) The term of office of a guardian shall be three years, and one-third, as nearly as may be, of every board of guardians shall go out of office on the fifteenth day of April in each year, and their places shall be filled by the newly elected guardians. Provided as follows:—

(*a.*) Where the county council on the application of the board of guardians of any union in their county consider that it would be expedient to provide for the simultaneous retirement of the whole of the board of guardians for the union, they may direct that the members of the board of guardians for that union shall retire together at the fifteenth day of April in every third year, and such order shall have full effect, and where a union is in more than one county, an order may be made by a joint committee of the councils of those counties;

(*b.*) Where at the passing of this Act the whole of the guardians of any union, in pursuance of an order of the Local Government Board, retire together at the end of every third year, they shall continue so to retire, unless the

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Sect. 20. Note. Sub-s. (6).

By the District Councillors and Guardians (Term of Office) Act, 1900 (63 & 64 Vict. c. 16), s. 1 (1), an order made under this section as to the retirement of members may be rescinded by the council that made it.

Before the passing of this Act guardians were, in the ordinary course, elected yearly within forty days of March 25th of each year, and continued in office for one year until forty days after March 25th following, or until other guardians were appointed in their stead (4 & 5 Will. 4, c. 76, s. 38, amended by 7 & 8 Vict. c. 101, s. 17). It was competent, however, to the Local Government Board, with the consent of the majority of owners and ratepayers of any parish or union, to alter the period of service of the guardians of such parish or union as to them should seem expedient (4 & 5 Will. 4, c. 76, s. 41); and in the execution of this power the board have made orders in respect of various unions which have prescribed a period of three years as the term of service in such unions. Some of such orders have, however, directed the simultaneous retirement of all the guardians every third year; others have directed the annual retirement of one-third of the board every year; and others have directed the retirement every third year of the guardians elected in certain groups of parishes, townships, or wards in the union. The orders directing simultaneous retirement, unless revoked or altered under the provisions of this Act, still remain in force; but the provisions relating to the election of guardians and to the making of such orders contained in 4 & 5 Will. 4, c. 76, ss. 38, 41, and 7 & 8 Vict. c. 101, s. 17, are repealed, and the date of election and term of office and method of retirement of guardians are now regulated by the provisions of this sub-section, subject to the powers given to the county council to regulate the retirement of guardians where they retire by thirds, given by sect. 60 (2), *infra*.

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county council, or a joint committee of the county councils, on the application of the board of guardians or of any district council of a district wholly or partially within the union, otherwise direct.

* *Sic.*

(8)* A board of guardians may elect a chairman or vice-chairman or both, and not more than two other persons, from outside their own body, but from persons qualified to be guardians of the union, and any person so elected shall be an additional guardian and member of the board. Provided that on the first election, if a sufficient number of persons who have been *ex-officio* or nominated guardians of the union, and have actually served as such, are willing to serve, the additional members shall be elected from among those persons.

Names of county districts and district councils.

XXI. As from the appointed day,—

(1) Urban sanitary authorities shall be called urban district councils, and their districts shall be called urban districts; but nothing in this section shall alter the style or title of the corporation or council of a borough:

(2) For every rural sanitary district there shall be a rural district council whose district shall be called a rural district:

(3) In this and every other Act of Parliament, unless the context otherwise requires, the expression "district council" shall include the council of every urban district, whether a borough or not, and of every rural district, and the expression "county district" shall include every urban and rural district whether a borough or not.

Chairman of council to be justice.

XXII. The chairman of a district council unless a woman or personally disqualified by any Act shall be by virtue of his office justice of the peace for the county in which the district is situate,

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Sect. 21.

Note.

Sub-s. (1).

Urban sanitary authorities are defined by sect. 100 of the Local Government Act, 1888, which is incorporated with this Act by sect. 75 of this Act.

Sub-s. (2).

Rural sanitary districts are defined by sect. 9 of the Public Health Act, 1875; but their areas are now much modified by the provisions of sect. 24 (5) of this Act, and by the power to alter boundaries vested in county councils by sect. 36 of this Act.

Sect. 22.

Note.

Amended by the Chairmen of District Councils Act, 1896 (59 & 60 Vict. c. 22), to obviate the necessity of the chairman taking the oaths on re-election. The oaths to be taken are the oath of allegiance and the judicial oath (The Promissory Oaths Act, 1868 (31 & 32 Vict. c. 72), s. 6). Affirmations instead of oaths are permissible under sect. 11 of that Act, and sect. 1 of the Oaths Act, 1888 (51 & 52 Vict. c. 46).

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but before acting as such justice he shall, if he has not already done so, take the oath required by law to be taken by a justice of the peace other than the oath respecting the qualification by estate.

Constitution of district councils in urban districts not being boroughs.

XXIII. As from the appointed day, where an urban district is not a borough—

(1) There shall be no *ex-officio* or nominated members of the urban sanitary authority :

(2) A person shall not be qualified to be elected or to be a councillor unless he is a parochial elector of some parish within the district, or has during the whole of the twelve months preceding the election resided in the district, and no person shall be disqualified by sex or marriage for being elected or being a councillor. So much of any enactment whether in a public general or local and personal Act as relates to the qualification of a member of an urban sanitary authority shall be repealed :

(3) The parochial electors of the parishes in the district shall be the electors of the councillors of the district, and, if the district is divided into wards, the electors of the councillors for each ward shall be such of the parochial electors as are registered in respect of qualifications within the ward :

(4) Each elector may give one vote and no more for each of any number of persons not exceeding the number to be elected :

(5) The election shall, subject to the provisions of this Act, be conducted according to rules framed under this Act by the Local Government Board :

(6) The term of office of a councillor shall be three years, and one-third, as nearly as may be, of the council, and if the district is divided into wards one-third, as nearly as may be, of the councillors for each ward, shall go out of office on the fifteenth day of Apri in each year, and their places shall be filled by the newly elected councillors. Provided that a county council may on request made by a resolution of an urban district council, passed by two-thirds of the members voting on the resolution, direct that the members of such council shall retire together on the fifteenth day of April in every third year, and such order shall have full effect.

Rural district councils.

XXIV.—(1) The district council of every rural district shall consist of a chairman and councillors, and the councillors shall

Sect. 23.

Note.

Sub-s. (4).

The provisions in this sub-section are in substitution for those contained in schedule 2 of the Public Health Act, 1875, which is repealed by this Act.

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be elected by the parishes or other areas for the election of guardians in the district.

(2) The number of councillors for each parish or other area in a rural district shall be the same as the number of guardians for that parish or area.

(3) The district councillors for any parish or other area in a rural district shall be the representatives of that parish or area on the board of guardians, and when acting in that capacity shall be deemed to be guardians of the poor, and guardians as such shall not be elected for that parish or area.

(4) The provisions of this Act with respect to the qualification, election, and term of office and retirement of guardians, and to the qualification of the chairman of the board of guardians, shall apply to district councillors and to the chairman of the district council of a rural district, and any person qualified to be a guardian for a union comprising the district shall be qualified to be a district councillor for the district.

(5) Where a rural sanitary district is on the appointed day situate in more than one administrative county, such portion thereof as is situate in each administrative county shall, save as otherwise provided by or in pursuance of this or any other Act, be as from the appointed day a rural district;

Provided that where the number of councillors of any such district will be less than five, the provisions, so far as unrepealed, of section nine of the Public Health Act, 1875, with respect to the nomination of persons to make up the members of a rural authority to five, shall apply, unless the Local Government Board by order direct that the affairs of the district shall be temporarily administered by the district council of an adjoining district in another county with which it was united before the appointed day, and, if they so direct, the councillors of the district shall be entitled, so far as regards those affairs, to sit and act as members of that district council, but a separate account shall be kept of receipts and expenses in respect of the district, and the same shall be credited or charged separately to the district.

38 & 39 Vict. c. 55.

(6) The said provisions of section nine of the Public Health Act, 1875, shall apply to the district council of a rural district to which they apply at the passing of this Act.

(7) Every district council for a rural district shall be a body corporate by the name of the district council, with the addition

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Sect. 24. Note. Sub-s. (3).

A union may comprise a rural district and one or more urban parishes. In the urban parishes there will be separate elections for guardians and district councillors; in the rural district there will not be separate elections, but the persons elected councillors will be guardians for the areas for which they were elected councillors.

Sub-s. (4).

The provisions referred to in this sub-section are contained in sects. 20, 60 of this Act.

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of the name of the district, or if there is any doubt as to the latter name, of such name as the county council direct, and shall have perpetual succession and a common seal, and may hold land for the purposes of their powers and duties without licence in mortmain.

Powers of district council with respect to sanitary and highway matters.

XXV.—(1) As from the appointed day, there shall be transferred to the district council of every rural district all the powers, duties and liabilities of the rural sanitary authority in the district, and of any highway authority in the district, and highway boards shall cease to exist, and rural district councils shall be the successors of the rural sanitary authority and highway authority, and shall also have as respects highways all the powers, duties, and liabilities of an urban sanitary authority under sections one hundred and forty-four to one hundred and forty-eight of the Public Health Act, 1875, and those sections shall apply in the case of a rural district and of the council thereof in like manner as in the case of an urban district and an urban authority. Provided that the council of any county may by order postpone within their county or any part thereof the operation of this section, so far as it relates to highways, for a term not exceeding three years from the appointed day or such further period as the Local Government Board may on the application of such council allow.

38 & 39 Vict. c. 55.

(2) Where a highway repairable *ratione tenuræ* appears on the report of a competent surveyor not to be in proper repair, and the person liable to repair the same fails when requested so to do by the district council to place it in proper repair, the district council may place the highway in proper repair, and recover from the person liable to repair the highway the necessary expenses of so doing.

(3) Where a highway authority receives any contribution from the county council towards the cost of any highway under section eleven, sub-section (10), of the Local Government Act, 1888, such contribution may be made, subject to any such conditions for the proper maintenance and repair of such highways, as may be agreed on between the county council and the highway authority.

51 & 52 Vict. c. 41.

(4) Where the council of a rural district become the highway authority for that district, any excluded part of a parish under section two hundred and sixteen of the Public Health Act, 1875, which is situate in that district, shall cease to be part of any urban district for the purpose of highways, but until the

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Sect. 25. Note. Sub-s. (1).

It is to be observed that none of the powers of guardians as poor law authorities are transferred to the district council. The powers and duties of the guardians and of the rural district council, although exercised by the same persons (with the addition to the board of guardians of such persons as are elected for urban parishes in the union), are entirely distinct.

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council become the highway authority such excluded part of a parish shall continue subject to the said section.

(5) Rural district councils shall also have such powers, duties, and liabilities of urban sanitary authorities under the Public Health Acts or any other Act, and such provisions of any of those Acts relating to urban districts shall apply to rural districts, as the Local Government Board by general order direct.

(6) The power to make such general orders shall be in addition to and not in substitution for the powers conferred on the board by section two hundred and seventy-six of the Public Health Act, 1875, or by any enactment applying that section; and every order made by the Local Government Board under this section shall be forthwith laid before Parliament.

(7) The powers conferred on the Local Government Board by the said section two hundred and seventy-six, or by any enactment applying that section, may be exercised on the application of a county council, or with respect to any parish or part of a parish on the application of the parish council of that parish.

Duties and powers of district council as to rights of way, rights of common, and roadside wastes.

XXVI.—(1) It shall be the duty of every district council to protect all public rights of way, and to prevent as far as possible the stopping or obstruction of any such right of way, whether within their district or in an adjoining district in the county or counties in which the district is situate, where the stoppage or obstruction thereof would in their opinion be prejudicial to the interests of their district, and to prevent any unlawful encroachment on any roadside waste within their district.

(2) A district council may with the consent of the county council for the county within which any common land is situate aid persons in maintaining rights of common where, in the opinion of the council, the extinction of such rights would be prejudicial to the inhabitants of the district; and may with the like consent exercise in relation to any common within their district all such powers as may, under section eight of the Commons Act, 1876, be exercised by an urban sanitary authority in relation to any common referred to in that section; and notice of any application to the Board of Agriculture in relation to any common within their district shall be served upon the district council.

39 & 40 Vict. c. 56.

(3) A district council may, for the purpose of carrying into effect this section, institute or defend any legal proceedings, and generally take such steps as they deem expedient.

(4) Where a parish council has represented to the district council that any public right of way within the district or an adjoining district in the county or counties in which the district is situate has been unlawfully stopped or obstructed, or that an unlawful encroachment has taken place on any roadside waste

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within the district, it shall be the duty of the district council, unless satisfied that the allegations of such representation are incorrect, to take proper proceedings accordingly; and if the district council refuse or fail to take any proceedings in consequence of such representation, the parish council may petition the county council for the county within which the way or waste is situate, and if that council so resolves the powers and duties of the district council under this section shall be transferred to the county council.

(5) Any proceedings or steps taken by a district council or county council in relation to an alleged right of way shall not be deemed to be unauthorized by reason only of such right of way not being found to exist.

(6) Nothing in this section shall affect the powers of the county council in relation to roadside wastes.

(7) Nothing in this section shall prejudice any powers exerciseable by an urban sanitary authority at the passing of this Act, and the council of every county borough shall have the additional powers conferred on a district council by this section.

Transfer of certain powers of justices to district councils.

XXVII.—(1) As from the appointed day the powers, duties, and liabilities of justices out of session in relation to any of the matters following, that is to say,—

(*a.*) The licensing of gang masters;

(*b.*) The grant of pawnbrokers' certificates;

(*c.*) The licensing of dealers in game;

(*d.*) The grant of licences for passage brokers and emigrant runners;

(*e.*) The abolition of fairs and alteration of days for holding fairs;

(*f.*) The execution as the local authority of the Acts relating to petroleum and infant life protection;

when arising within a county district, shall be transferred to the district council of the district.

(2) As from the appointed day, the powers, duties, and liabilities of quarter sessions in relation to the licensing of knackers' yards within a county district shall be transferred to the district council of the district.

(3) All fees payable in respect of the powers, duties and liabilities transferred by this section shall be payable to the district council.

Expenses of urban district council.

XXVIII. The expenses incurred by the council of an urban district in the execution of the additional powers conferred on

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Sect. 28. Note.

The expenses of an urban district council incurred in the execution of the powers and duties of overseers, which may be conferred

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the council by this Act shall, subject to the provisions of this Act, be defrayed in a borough out of the borough fund or rate, and in any other case out of the district fund and general district rate or other fund applicable towards defraying the expenses of the execution of the Public Health Act, 1875.

38 & 39 Vict. c. 55.

Expenses of rural district council.

XXIX. The expenses incurred by the council of a rural district shall, subject to the provisions of this Act, be defrayed in manner directed by the Public Health Act, 1875, with respect to expenses incurred in the execution of that Act by a rural sanitary authority, and the provisions of the Public Health Acts with respect to those expenses shall apply accordingly.

Provided as follows :—

(*a.*) Any highway expenses shall be defrayed as general expenses :

(*b.*) When the Local Government Board determine any expenses under this Act to be special expenses and a separate charge on any contributory place, and such expenses would if not separately chargeable on a contributory place be raised as general expenses, they may further direct that such special expenses shall be raised in like manner as general expenses, and not by such separate rate for special expenses as is mentioned in section two hundred and thirty of the Public Health Act, 1875 :

38 & 39 Vict. c. 55.

(*c.*) A district council shall have the same power of charging highway expenses under exceptional circumstances on a contributory place as a highway board has in respect of any area under section seven of the Highways and Locomotives (Amendment) Act, 1878 :

41 & 42 Vict. c. 77.

(*d.*) Where highway expenses would, if this Act had not passed, have been in whole or in part defrayed in any parish or other area out of any property or funds other than rates, the district council shall make such provision as will give to that parish or area the benefit of such property or funds by way of reduction of the rates on the parish or area.

Guardians in London and county boroughs.

XXX. The provisions of this part of this Act respecting guardians shall apply to the administrative county of London and to every county borough.

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upon the council by an order of the Local Government Board in pursuance of sect. 33 (1) of this Act, do not appear to fall within this section, and should be defrayed out of the poor rate in the same way as the expenses of the overseers were defrayed.

Sect. 29. Note.

The provisions herein referred to are contained in sects. 229—232 of the Public Health Act, 1875.

Sect. 30. Note.

The provisions herein referred to are contained in sect. 20 of this Act.

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Provisions as to London vestries and district boards.

XXXI.—(1) The provisions of this Act with respect to the qualification of the electors of urban district councillors, and of the persons to be elected, and with respect to the mode of conducting the election, shall apply as if members of *the local board of Woolwich and* the vestries elected under the Metropolis Management Acts, 1855 to 1890, or any Act amending those Acts, *and the auditors for parishes elected under those Acts, and so far as respects the qualification of persons to be elected as if members of the district boards under the said Acts*, were urban district councillors, *and no person shall, ex-officio, be chairman of any of the said vestries.* Provided that the Elections (Hours of Poll) Act, 1885, shall apply to elections to the said vestries.

48 Vict. c. 10.

(2) *Each of the said vestries, except those electing district boards, and each of the said district boards and the local board of Woolwich, shall at their first meeting after the annual election of members elect a chairman for the year, and section forty-one of the Metropolis Management Act*, 1855, *shall apply only in case of the absence of such chairman, and the provisions of this Act with respect to chairmen of urban district councils being justices shall apply as if the said vestries and boards were urban district councils.*

18 & 19 Vict. c. 120.

(3) Nothing in any local and personal Act shall prevent any vestry in the county of London from holding their meeting at such time as may be directed by the vestry.

Application to county boroughs of provisions as to transfer of justices' powers.

XXXII. The provisions of this part of this Act respecting the powers, duties, and liabilities of justices out of session, or of quarter sessions, which are transferred to a district council, shall apply to a county borough as if it were an urban district, and the county borough council were a district council.

Power to apply certain provisions of Act to urban districts and London.

XXXIII.—(1) The Local Government Board may, on the application of the council of any municipal borough, including a county borough, or of any other urban district, make an order

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Note.

Sub-s. (1).

The words in italics are repealed by the London Government Act, 1899 (62 & 63 Vict. c. 14), s. 35 (2). Vestries are no longer elected in the metropolis, but the law relating to the constitution, election and proceedings of such vestries is applied to the case of borough councils by sect. 2 (5) of the London Government Act, 1899, except as otherwise provided by that Act.

This sub-section does not apply to the election of guardians, the mode and time of which are prescribed by rules of the Local Government Board. The parish auditors were elected under sect. 11 of the Metropolis Management Act, 1855, now repealed by the London Government Act, 1899.

Sub-s. (2).

This sub-section is repealed by the London Government Act, 1899 (62 & 63 Vict. c. 14), s. 35 (2).

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Note.

Sub-s. (1).

There is no definition in this Act of a "representative body," but presumably it would include any body of persons directly elected by the whole of the electors of the borough or urban district, or if the operation of the order is limited under sub-sect. (3) to part of

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conferring on that council or some other representative body within the borough or district all or any of the following matters, namely, the appointment of overseers and assistant overseers, the revocation of appointment of assistant overseers, any powers, duties, or liabilities of overseers, and any powers, duties, or liabilities of a parish council, and applying with the necessary modifications the provisions of this Act with reference thereto.

(2) Where it appears to the Local Government Board that, by reason of the circumstances connected with any parish in a municipal borough (including a county borough) or other urban district divided into wards, or with the parochial charities of that parish, the parish will not, if the majority of the body of trustees administering the charity are appointed by the council of the borough or district, be properly represented on that body, they may, by their order, provide that such of those trustees as are appointed by the council, or some of them, shall be appointed on the nomination of the councillors elected for the ward or wards comprising such parish or any part of the parish.

(3) Any order under this section may provide for its operation extending either to the whole or to specified parts of the area of the borough or urban district, and may make such provisions as seem necessary for carrying the order into effect.

(4) The order shall not alter the incidence of any rate, and shall make such provisions as may seem necessary and just for the preservation of the existing interests of paid officers.

(5) An order under this section may also be made on the application of any representative body within a borough or district.

(6) The provisions of this section respecting councils of urban districts shall apply to the administrative county of London in like manner as if the district of each sanitary authority in that county were an urban district, and the sanitary authority were the council of that district.

(7) The Local Government Board shall consult the Charity

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the area of the borough or district, then by the whole of the electors of that part.

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Note.

Sub-s. (1).

Unless an order is made under this section, overseers and assistant overseers for parishes in urban districts will be appointed as heretofore, and the revocation of the appointment of an assistant overseer will be in the hands of the vestry under the Poor Relief Act, 1819 (59 Geo. 3, c. 12), s. 7. In metropolitan boroughs the council of each borough are constituted the overseers of every parish within their borough by the London Government Act, 1899 (62 & 63 Vict. c. 14), s. 11 (1).

Sub-s. (6).

For the sanitary authorities and districts in the metropolis, see the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 99. Every metropolitan borough, however, is now placed within the jurisdiction of the borough council as the sanitary authority by the various schemes authorized by sect. 16 (1) (b) of the London Government Act, 1899.

Commissioners before making any order under this section with respect to any charity. Sect. 33.

Supplemental provisions as to control of overseers in urban districts.

XXXIV. Where an order of the Local Government Board under this Act confers on the council of an urban district, or some other representative body within the district, either the appointment of overseers and assistant overseers or the powers, duties, and liabilities of overseers, that order or any subsequent order of the board may confer on such council or body the powers of the vestry under the third and fourth sections of the Poor Rate Assessment and Collection Act, 1869. 32 & 33 Vict. c. 41.

Restrictions on application of Act to London, &c.

XXXV. Save as specially provided by this Act, this part of this Act shall not apply to the administrative county of London or to a county borough.

## PART III.

### AREAS AND BOUNDARIES.

Duties and powers of county council with respect to areas and boundaries.

XXXVI.—(1) For the purpose of carrying this Act into effect in the case of—

(*a.*) Every parish and rural sanitary district which at the passing of this Act is situate partly within and partly without an administrative county; and

(*b.*) Every parish which at the passing of this Act is situate partly within and partly without a sanitary district; and

(*c.*) Every rural parish which has a population of less than two hundred; and

(*d.*) Every rural sanitary district which at the passing of this Act has less than five elective guardians capable of acting and voting as members of the rural sanitary authority of the district; and

(*e.*) Every rural parish which is co-extensive with a rural sanitary district;

every county council shall forthwith take into consideration every such case within their county, and whether any proposal has or has not been made as mentioned in section fifty-seven of the Local Government Act, 1888, shall as soon as practicable, in accordance with that section, cause inquiries to be made and notices given, and make such orders, if any, as they deem most suitable for carrying into effect this Act in accordance with the following provisions, namely:— 51 & 52 Vict. c. 41.

(i.) The whole of each parish, and, unless the county council for special reasons otherwise direct, the whole of each rural district shall be within the same administrative county;

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The powers of the vestry herein mentioned have reference to their compounding with owners of small hereditaments for the payment of rates by the owners instead of by the occupiers. Sect. 34. Note.

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(ii.) The whole of each parish shall, unless the county council for special reasons otherwise direct, be within the same county district; and

(iii.) Every rural district which will have less than five elected councillors shall, unless for special reasons the county council otherwise direct, be united to some neighbouring district or districts.

(2) Where a parish is at the passing of this Act situate in more than one urban district, the parts of the parish in each such district shall, as from the appointed day, unless the county council for special reasons otherwise direct, and subject to any alteration of area made by or in pursuance of this or any other Act, be separate parishes, in like manner as if they had been constituted separate parishes under the Divided Parishes and Poor Law Amendment Act, 1876, and the Acts amending the same.

39 & 40 Vict. c. 61.

(3) Where a parish is divided by this Act, the county council may by order provide for the application to different parts of that parish of the provisions of this Act with respect to the appointment of trustees or beneficiaries of a charity and for the custody of parish documents, but the order, so far as regards the charity, shall not have any effect until it has received the approval of the Charity Commissioners.

(4) Where a rural parish is co-extensive with a rural sanitary district, then, until the district is united to some other district or districts, and unless the county council otherwise direct, a separate election of a parish council shall not be held for the parish, but the district council shall, in addition to their own powers, have the powers of, and be deemed to be, the parish council.

(5) Where an alteration of the boundary of any county or borough seems expedient for any of the purposes mentioned in this section, application shall be made to the Local Government Board for an order under section fifty-four of the Local Government Act, 1888.

(6) Where the alteration of a poor law union seems expedient by reason of any of the provisions of this Act, the county council may, by their order, provide for such alteration in

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Sect. 36. Note. Sub-s. (2).

Separate overseers must be appointed for each of the new separate parishes created by this sub-section in pursuance of sect. 6 of the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61). Birth settlements in the original parish are destroyed by this division of the parish into separate parishes (*Dorking Union* v. *St. Saviour's Union*, [1898] 1 Q. B. 594; 67 L. J. Q. B. 408; 78 L. T. 29; 46 W. R. 309; 62 J. P. 308, following *Reg.* v. *Tipton*, [1842] 3 Q. B. 215).

Sub-s. (6).

The powers of the Local Government Board to alter unions are contained in the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 32; the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 66; the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 4; the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 11; and the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 58.

accordance with section fifty-eight of the Local Government Act, 1888, or otherwise, but this provision shall not affect the powers of the Local Government Board with respect to the alteration of unions.

(7) Where an order for the alteration of the boundary of any parish or the division thereof, or the union thereof or of any part thereof, with another parish is proposed to be made after the appointed day, notice thereof shall, a reasonable time before it is made, be given to the parish council of that parish, or if there is no parish council, to the parish meeting, and that parish council or parish meeting, as the case may be, shall have the right to appear at any inquiry held by the county council with reference to the order, and shall be at liberty to petition the Local Government Board against the confirmation of the order.

(8) Where the alteration of the boundary of any parish, or the division thereof or the union thereof or of part thereof with another parish, seems expedient for any of the purposes of this Act, provision for such alteration, division, or union may be made by an order of the county council confirmed by the Local Government Board under section fifty-seven of the Local Government Act, 1888. 51 & 52 Vict. c. 41.

(9) Where a parish is by this Act divided into two or more parishes, those parishes shall, until it is otherwise provided, be included in the same poor law union in which the original parish was included.

(10) Subject to the provisions of this Act, any order made by a county council in pursuance of this part of this Act shall be deemed to be an order under section fifty-seven of the Local Government Act, 1888, and any board of guardians affected by an order shall have the same right of petitioning against that order as is given by that section to any other authority.

(11) Where any of the areas referred to in section fifty-seven of the Local Government Act, 1888, is situate in two or more counties, or the alteration of any such area would alter the boundaries of a poor law union situate in two or more counties, a joint committee appointed by the councils of those counties shall, subject to the terms of delegation, be deemed to have and to have always had power to make orders under that section with respect to that area; and where at the passing of this Act a rural sanitary district or parish is situate in more than one county, a joint committee of the councils of those counties shall act under this section, and if any of those councils do not, within two months after request from any other of them, appoint members of such joint committee, the members of the committee actually appointed shall act as the joint committee. Provided that any question arising as to the constitution or procedure of any such joint committee shall, if the county councils concerned fail to agree, be determined by the Local Government Board.

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50 & 51 Vict. c. 61.

(12) Every report made by the Boundary Commissioners under the Local Government Boundaries Act, 1887, shall be laid before the council of any administrative county or borough affected by that report, and before any joint committee of county councils, and it shall be the duty of such councils and joint committees to take such reports into consideration before framing any order under the powers conferred on them under this Act.

(13) Every county council shall, within two years after the passing of this Act, or within such further period as the Local Government Board may allow either generally or with reference to any particular matter, make such orders under this section as they deem necessary for the purpose of bringing this Act into operation, and after the expiration of the said two years or further period the powers of the county council for that purpose shall be transferred to the Local Government Board, who may exercise those powers.

Provision as to parishes having parts with defined boundaries.

XXXVII. Where it is proved to the satisfaction of the county council that any part of a parish has a defined boundary, and has any property or rights distinct from the rest of the parish, the county council may order that the consent of a parish meeting held for that part of the parish shall be required for any such act or class of acts of the parish council affecting the said property or rights as is specified in the order.

Orders for grouping parishes and dissolving groups.

XXXVIII.—(1) Where parishes are grouped, the grouping order shall make the necessary provisions for the name of the group, for the parish meetings in each of the grouped parishes, and for the election in manner provided by this Act of separate representatives of each parish on the parish council, and may provide for the consent of the parish meeting of a parish to any particular act of the parish council, and for any other adaptations of this Act to the group of parishes, or to the parish meetings in the group.

(2) Where parishes are grouped the whole area under each parish council shall, unless the county council for special reasons otherwise direct, be within the same administrative county and county district.

(3) Where parishes are grouped, the grouping order shall provide for the application of the provisions of this Act with respect to the appointment of trustees and beneficiaries of a charity, and the custody of documents, so as to preserve the separate rights of each parish.

(4) The parish meeting of any parish may apply to the county council for a grouping order respecting that parish, and, if the parish has a less population than two hundred, for a parish council, and any such application shall be forthwith taken into consideration by the county council.

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Note.

As to the holding of parish meetings for parts of parishes, see sect. 49, *infra*.

(5) The county council may, on the application of the council for any group of parishes or of the parish meeting for any parish included in a group of parishes, make an order dissolving the group, and shall by the order make such provision as appears necessary for the election of parish councils of the parishes in the group and for the adjustment of property, rights, and liabilities as between separate parishes and the group.

Provisions for increase and decrease of population.

XXXIX.—(1) Where the population of a parish not having a separate parish council increases so as to justify the election of such council, the parish meeting may petition the county council, and the county council, if they think proper, may order the election of a parish council in that parish, and shall by the order make such provision as appears necessary for separating the parish from any group of parishes in which it is included, and for the alteration of the parish council of the group, and for the adjustment of property, rights, and liabilities as between the group and the parish with a separate parish council.

(2) Where the population of a parish, according to the last published census for the time being, is less than two hundred, the parish meeting may petition the county council, and the county council, if they think proper, may order the dissolution of the parish council, and from and after the date of the order this Act shall apply to that parish as to a parish not having a parish council. The order shall make such provision as appears necessary for carrying it into effect, and for the disposal and adjustment of the property, rights, and liabilities of the parish council. Where a petition for such an order is rejected, another petition for the same purpose may not be presented within two years from the presentation of the previous petition.

Certain orders of county council not to require confirmation.

XL. A grouping order, and an order establishing or dissolving a parish council, or dissolving a group of parishes, and an order relating to the custody of parish documents or requiring the approval of the Charity Commissioners, and an order requiring the consent of the parish meeting for any part of the parish to any act or class of acts of the parish council, shall not require submission to or confirmation by the Local Government Board.

Reduction of time for appealing against county council orders.

XLI. The time for petitioning against an order under section fifty-seven of the Local Government Act, 1888, shall be six weeks instead of three months after the notice referred to in sub-section three of that section.

Validity of county council orders.

XLII. When an order under section fifty-seven of the Local Government Act, 1888, has been confirmed by the Local Government Board, such order shall at the expiration of six months from that confirmation be presumed to have been duly

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made, and to be within the powers of that section, and no objection to the legality thereof shall be entertained in any legal proceeding whatever.

## PART IV.

### SUPPLEMENTAL.

*Parish Meetings and Elections.*

Removal of disqualification of married women.

XLIII. For the purposes of this Act a woman shall not be disqualified by marriage for being on any local government register of electors, or for being an elector of any local authority, provided that a husband and wife shall not both be qualified in respect of the same property.

Register of parochial electors.

XLIV.—(1) The local government register of electors and the Parliamentary register of electors, so far as they relate to a parish shall, together, form the register of the parochial electors of the parish; and any person whose name is not in that register shall not be entitled to attend a meeting or vote as a parochial elector, and any person whose name is in that register shall be entitled to attend a meeting and vote as a parochial elector unless prohibited from voting by this or any other Act of Parliament.

(2) Where the parish is in a Parliamentary borough, such portion of the Parliamentary register of electors for the county as contains the names of persons registered in respect of the ownership of any property in the parish shall be deemed to form part of the Parliamentary register of electors for the parish within the meaning of this section.

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Note.

Coverture does not disentitle a woman, otherwise qualified, from voting at an election of guardians. But a married woman is not qualified as a "parochial elector" to vote at an election by reason of her ownership of property, there being no ownership qualification for local government electors (*Drax* v. *Fooks*, [1896] 1 Q. B. 238; 65 L. J. Q. B. 270; 74 L. T. 43; 44 W. R. 393; 60 J. P. 214).

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Note.

Sub-s. (1).

Among the persons disqualified from voting at (*inter alia*) an election of guardians by other Acts of Parliament are the following: Persons in receipt of relief given to himself, his wife, or child during the year last preceding such election, by the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 14; felons, by the Forfeiture Act, 1870 (33 & 34 Vict. c. 23), s. 2; persons convicted or found guilty of corrupt or illegal practices at a Parliamentary or municipal election, by the Corrupt and Illegal Practices Prevention Act, 1883 (46 & 47 Vict. c. 51), ss. 4, 6, 10, 11, and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70), ss. 2, 7, 8; persons convicted for a second time of the offence of corruption under the Public Bodies Corrupt Practices Act, 1889 (52 & 53 Vict. c. 69), s. 2; aliens, by the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 9 (3) (*a*), extended by the County Electors Act, 1888 (51 & 52 Vict. c. 10), s. 2; bankrupts for five years from the date of their *discharge*, by the Bankruptcy Acts, 1883 and 1890 (46 & 47 Vict. c. 52, s. 32; 53 & 54 Vict. c. 71, s. 9).

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(3) The lists and register of electors in any parish shall be framed in parts for wards of urban districts and parishes in such manner that they may be conveniently used as lists for polling at elections for any such wards.

(4) Nothing in any Act shall prevent a person, if duly qualified, from being registered in more than one register of parochial electors.

(5) Where in that portion of the Parliamentary register of electors which relates to a parish a person is entered to vote in a polling district other than the district comprising the parish, such person shall be entitled to vote as a parochial elector for that parish, and in addition to an asterisk there shall be placed against his name a number consecutive with the other numbers in the list.

(6) Where the revising barrister in any list of voters for a parish would—

(*a.*) In pursuance of section seven of the County Electors Act, 1888, place an asterisk or other mark against the name of any person ; or 51 Vict. c. 10.

(*b.*) In pursuance of section four of the Registration Act, 1885, erase the name of any person otherwise than by reason of that name appearing more than once in the lists for the same parish ; or

(*c.*) In pursuance of section twenty-eight of the Parliamentary and Municipal Registration Act, 1878, as amended by section five of the Registration Act, 1885, place against the name of a person a note to the effect that such person is not entitled to vote in respect of the qualification contained in the list, 41 & 42 Vict. c. 26. 48 & 49 Vict. c. 15.

the revising barrister shall, instead of placing that mark or note, or erasing the name, place against the name, if the person is entitled to vote in respect of that entry as a county elector or burgess, a mark signifying that his name should be printed in division three of the list, or if he is entitled to vote only as a parochial elector, a mark signifying that he is entitled to be registered as a parochial elector, and the name so marked shall not be printed in the Parliamentary register of electors, but shall be printed, as the case requires, either in division three of the local government register of electors, or in a separate list of parochial electors.

(7) Where the name of a person is entered both in the ownership list and in the occupation list of voters in the same parish, and the revising barrister places against that name a mark or note signifying that the name should be printed in division three of the lists, an asterisk or other mark shall be there printed against the name, and such person shall not be entitled to vote as a parochial elector in respect of that entry.

(8) Such separate list shall form part of the register of parochial electors of the parish, and shall be printed at the

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end of the other lists of electors for the parish, and the names shall be numbered consecutively with the other names on those lists, and the law relating to the register of electors shall, with the necessary modifications, apply accordingly, and the lists shall, for the purposes of this Act, be deemed to be part of such register.

(9) Any person may claim for the purpose of having his name entered in the parochial electors' list, and the law relating to claims to be entered in lists of voters shall apply.

(10) The clerk of the county council or town clerk, as the case may be, shall, in printing the lists returned to him by the revising barrister, do everything that is necessary for carrying into effect the provisions of this section with respect to the persons whose names are marked by the revising barrister in pursuance of this section.

Supplemental provisions as to parish meetings.

XLV.—(1) Subject to the provisions of this Act, parish meetings shall be held on such days and at such times and places as may be fixed by the parish council, or, if there is no parish council, by the chairman of the parish meeting.

(2) If the chairman of the parish council is present at a parish meeting and is not a candidate for election at the meeting, he shall, save as otherwise provided by this Act, be the chairman of the meeting.

(3) The chairman of the parish council, or any two parish councillors, or the chairman of the parish meeting, or any six parochial electors, may at any time convene a parish meeting.

Disqualifications for parish or district council.

XLVI.—(1) A person shall be disqualified for being elected or being a member or chairman of a council of a parish or of a district other than a borough or of a board of guardians if he—

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Note.

Sub-s. (1).

Relief to a man's parent is not, but relief to his wife or child is, relief to the man himself (4 & 5 Will. 4, c. 76, s. 56; *Reg.* v. *Ireland*, L. R. 3 Q. B. 130; 37 L. J. Q. B. 73; 17 L. T. (N. S.) 466; 16 W. R. 358). Employment by the parish or union in labour at a rate of wages inferior to the wages that would usually be paid by individuals is a receipt of parochial relief (*Kemp's Case*, 1 Perry & Knapp, 128; *Taylor's Case*, 1 Pow. Rod. & Dew, 156; *Magarill* v. *Whitehaven, Overseers*, 16 Q. B. D. 242; 55 L. J. Q. B. 38; 53 L. T. 667; 34 W. R. 275; 49 J. P. 743).

An offence punishable with imprisonment on summary conviction is a "crime" which would on conviction disqualify under this sub-section (*Conybeare* v. *London School Board*, [1891] 1 Q. B. 118; 60 L. J. Q. B. 44; 63 L. T. 651; 39 W. R. 288; 55 J. P. 151).

An assignment of a debtor's property for the benefit of his creditors is not necessarily a "composition with creditors," but it is apparently an "arrangement" within the meaning of this sub-section (*Reg.* v. *Cooban*, 18 Q. B. D. 269; 56 L. J. M. C. 33; 51 J. P. 500; *Aslatt* v. *Corporation of Southampton*, 16 Ch. D. 143; 50 L. J. Ch. 31; 43 L. T. 464; 45 J. P. 111; *Hardwick* v. *Brown*, L. R. 8 C. P. 406; 2 L. T. (N. S.) 502; 21 W. R. 639; 37 J. P.

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(*a.*) Is an infant or an alien; or

(*b.*) Has within twelve months before his election, or since his election, received union or parochial relief; or

(*c.*) Has, within five years before his election or since his election, been convicted either on indictment or summarily of any crime, and sentenced to imprisonment with hard labour without the option of a fine, or to any greater punishment, and has not received a free pardon, or has, within or during the time aforesaid, been adjudged bankrupt, or made a composition or arrangement with his creditors; or

(*d.*) Holds any paid office under the parish council or district council or board of guardians, as the case may be; or

(*e.*) Is concerned in any bargain or contract entered into with the council or board, or participates in the profit of any such bargain or contract or of any work done under the authority of the council or board.

(2) Provided that a person shall not be disqualified for being elected or being a member or chairman of any such council or board by reason of being interested—

(*a.*) In the sale or lease of any lands or in any loan of money to the council or board, or in any contract with the council for the supply from land, of which he is owner or occupier, of stone, gravel, or other materials for making or repairing highways or bridges, or in ths transport of materials for the repair of roads or bridgee in his own immediate neighbourhood; or

(*b.*) In any newspaper in which any advertisement relating to the affairs of the council or board is inserted; or

(*c.*) In any contract with the council or board as a shareholder in any joint stock company; but he shall not vote at any meeting of the council or board on any question in which such company are interested, except that in the

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407; *Futcher* v. *Saunders*, 49 J. P. 424; *Ex parte Atherton*, 2 T. L. R. 631).

Note. Sub-s. (1).

Paid officers are disqualified generally from serving as guardians by the Poor Law Amendment Act, 1842 (5 & 6 Vict. c. 57), s. 14, which is wider in its terms than this sub-section.

As to what interest in bargains or contracts operates as a disqualification, see Archbold's Poor Law (15th ed.), p. 79.

There are several other disqualifications for the office of guardian imposed by other statutes; these are enumerated in the note to s. 44 (1), *supra*, p. 2186.

Sub-s. (2).

A sale or lease of lands either *by* or *to* a council or board of guardians falls within the exception of this sub-section (*Reg.* v. *Gaskarth*, 5 Q. B. D. 321; 49 L. J. Q. B. 509; 42 L. T. 688; 28 W. R. 596; 44 J. P. 507); and the length of the term for which the lands are let is immaterial (*Nell* v. *Longbottom*, [1894] 1 Q. B. 767; 63 L. J. Q. B. 490; 70 L. T. 499).

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case of a water company or other company established for the carrying on of works of a like public nature, this prohibition may be dispensed with by the county council.

(3) Where a person who is a parish councillor, or is a candidate for election as a parish councillor, is concerned in any such bargain or contract, or participates in any such profit, as would disqualify him for being a parish councillor, the disqualification may be removed by the county council if they are of opinion that such removal will be beneficial to the parish.

(4) Where a person is disqualified by being adjudged bankrupt or making a composition or arrangement with his creditors, the disqualification shall cease, in case of bankruptcy, when the adjudication is annulled, or when he obtains his discharge with a certificate that his bankruptcy was caused by misfortune without any misconduct on his part, and, in case of composition or arrangement, on payment of his debts in full.

(5) A person disqualified for being a guardian shall also be disqualified for being a rural district councillor.

(6) If a member of a council of a parish, or of a district other than a borough, or of a board of guardians, is absent from meetings of the council or board for more than six months consecutively, except in case of illness or for some reason approved by the council or board, his office shall on the expiration of those months become vacant.

(7) Where a member of a council or board of guardians becomes disqualified for holding office, or vacates his seat for absence, the council or board shall forthwith declare the office to be vacant, and signify the same by notice signed by three members and countersigned by the clerk of the council or board, and notified in such manner as the council or board direct, and the office shall thereupon become vacant.

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Sect. 46. Note. Sub-s. (6).

A similar provision relating to councillors of a borough is contained in the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 39. By the Members of Local Authorities Relief Act, 1900 (63 & 64 Vict. c. 46), s. 2, an officer or soldier of the auxiliary forces or of the reserve forces on active service, or on service beyond the seas, shall not by reason only of his absence on that service be disqualified or vacate his office as member of any county or borough or district or parish council or board of guardians or incur any fine or other liability.

Sub-s. (7).

The vacancy in the office of guardian will not occur until a declaration is made by the board of guardians under this subsection. (See *Hardwick* v. *Brown*, L. R. 8 C. P. 406; 28 L. T. (N. S.) 502; 21 W. R. 639; 37 J. P. 407; *Reg.* v. *Leeds, Mayor, &c., of*, 7 A. & E. 963; *Reg.* v. *Welchpool, Mayor, &c., of*, 35 L. T. (N. S.) 594; cases which were decided on a corresponding section in the Municipal Corporations Acts, 1835 and 1882.) It may be necessary also for the board to give the defaulting member an opportunity of explaining or excusing his absence before declaring the office vacant (*Richardson* v. *Methley School Board*, [1893] 3 Ch. 510; 62 L. J. Ch. 943; 69 L. T. 398; 42 W. R. 27).

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(8) If any person acts when disqualified, or votes when prohibited under this section, he shall for each offence be liable on summary conviction to a fine not exceeding twenty pounds.

(9) This section shall apply in the case of any authority whose members are elected in accordance with this Act in like manner as if that authority were a district council, *and in the case of London auditors as if they were members of a district council.*

Supplemental provisions as to parish councils.

XLVII.—(1) If at the annual election of parish councillors any vacancies are not filled by election, such number of the retiring councillors as are not re-elected, and are required to fill the vacancies, shall, if willing, continue to hold office. The councillors so to continue shall be those who were highest on the poll at the previous election, or if the numbers were equal or there was no poll, as may be determined by the parish meeting, or if not so determined, by the chairman of the parish council.

(2) A retiring parish councillor or chairman of a parish council or parish meeting shall be re-eligible.

(3) A parish councillor may, by notice in writing to the chairman of the council, resign his office, and a chairman of a parish council or parish meeting may resign his chairmanship by notice in writing to the council or meeting.

(4) A casual vacancy among parish councillors or in the office of chairman of the council shall be filled by the parish council, and where there is no parish council, a casual vacancy in the office or chairman of the parish meeting shall be filled by the parish meeting, and the person elected shall retire from office at the time when the vacating councillor or chairman would have retired.

(5) If any parish council become unable to act by reason of a want of councillors, whether from failure to elect or otherwise, the county council may order a new election, and may by order make such provision as seems expedient for authorizing any person to act temporarily in the place of the parish council and of the chairman thereof.

Supplemental provisions as to elections, polls, and tenure of office.

XLVIII.—(1) The election of a parish councillor shall be at a parish meeting, or at a poll consequent thereon.

(2) Rules framed under this Act by the Local Government Board in relation to elections shall, notwithstanding anything

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The words in italics are repealed by the London Government Act, 1899 (62 & 63 Vict. c. 14), s. 35 (2).

Sect. 46. Note. Sub-s. (9).

Permanent rules have now been framed by the Local Government Board for the election of guardians and rural district councillors and are contained in three orders styled respectively "Guardians (Outside London) Election Order, 1898," dated January 1st, 1898, and applicable to the election of guardians in urban districts outside London; "Guardians (London) Election Order, 1898," dated January 21st, 1898, and applicable to the election of guardians in

Sect. 48. Note. Sub-s. (2).

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in any other Act, have effect as if enacted in this Act, and shall provide, amongst other things—

(i.) For every candidate being nominated in writing by two parochial electors as proposer and seconder and no more ;

(ii.) For preventing an elector at an election for a union or for a district not a borough from subscribing a nomination paper or voting in more than one parish or other area in the union or district ;

(iii.) For preventing an elector at an election for a parish divided into parish wards from subscribing a nomination paper or voting for more than one ward ;

(iv.) For fixing or enabling the county council to fix the day of the poll and the hours during which the poll is to be kept open, so, however, that the poll shall always be open between the hours of six and eight in the evening;

(v.) For the polls at elections held at the same date and in the same area being taken together, except where this is impracticable ;

(vi.) For the appointment of returning officers for the elections.

(3) At every election regulated by rules framed under this Act the poll shall be taken by ballot, and the Ballot Act, 1872, and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, and sections seventy-four and seventy-five and Part IV. of the Municipal Corporations Act, 1882, as amended by the last-mentioned Act (including the penal provisions of those Acts) shall, subject to adaptations, alterations, and exceptions made by such rules, apply in like manner as in the case of a municipal election. Provided that—

35 & 36 Vict. c. 33.
47 & 48 Vict. c. 70.
45 & 46 Vict. c. 50.

(*a.*) Section six of the Ballot Act, 1872, shall apply in the case of such elections, and the returning officer may, in addition to using the schools and public rooms therein referred to free of charge, for taking the poll, use the same, free of charge, for hearing objections to nomination papers and for counting votes ; and

(*b.*) Section thirty-seven of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, shall apply as if the election were an election mentioned in the first schedule to that Act.

(4) The provisions of the Municipal Corporations Act, 1882,

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London ; and "Rural District Councillors Election Order, 1898," dated January 1st, 1898, and applicable to the election of district councillors who will be the guardians in rural districts for the parishes or other areas for which they were elected councillors. These orders contain an adaptation of all the various Acts and sections of Acts mentioned in the succeeding sub-section of this section.

Note.

Sub-s. (2).

Sub-s. (4).

The words in italics are repealed by the London Government Act, 1899 (62 & 63 Vict. c. 14), s. 35 (2).

The provisions regulating the resignation of guardians are contained in the Poor Law Amendment Act, 1842 (5 & 6 Vict. c. 57),

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and the enactments amending the same, with respect to the expenses of elections of councillors of a borough, and to the acceptance of office, resignation, re-eligibility of holders of office, and the filling of casual vacancies, and section fifty-six of that Act, shall, subject to the adaptations, alterations, and exceptions made by the said rules, apply in the case of guardians and of district councillors of a county district not a borough, *and of members of the local board of Woolwich*, and of a vestry under the Metropolis Management Acts, 1855 to 1890, and any Act amending the same. Provided that—

(*a.*) The provisions as to resignation shall not apply to guardians, and district councillors of a rural district shall be in the same position with respect to resignation as members of a board of guardians ; and

(*b.*) Nothing in the enactments applied by this section shall authorize or require a returning officer to hold an election to fill a casual vacancy which occurs within six months before the ordinary day of retirement from the office in which the vacancy occurs, and the vacancy shall be filled at the next ordinary election ; and

(*c.*) The rules may provide for the incidence of the charge for the expenses of the elections of guardians being the same as heretofore.

(5) If any difficulty arises as respects the election of any individual councillor or guardian, or member of any such *local board or* vestry as aforesaid, *or auditor*, and there is no provision for holding another election, the county council may order a new election to be held and give such directions as may be necessary for the purpose of holding the election.

(6) Any ballot boxes, fittings, and compartments provided by or belonging to any public authority, for any election (whether Parliamentary, county council, or municipal, school board, or other), shall, on request, and if not required for immediate use by the said authority, be lent to the returning officer for an election under this Act, upon such conditions and either free of charge or, except in the prescribed cases, for such reasonable charge as may be prescribed.

(7) The expenses of any election under this Act shall not exceed the scale fixed by the county council, and if at the

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Note.

Sub-s. (4).

s. 11. The provisions of the Municipal Corporations Act, 1882, with respect to the expenses of the election of councillors are contained in sect. 140 ; schedule 3, part 3, r. 5 ; and schedule 5, part 2, r. 1, of that Act ; to acceptance of office in sects. 34, 35, and perhaps 68 ; to resignation, in sect. 36 ; to re-eligibility, in sect. 37 ; and to the filling of casual vacancies, in sects. 40, 66. All these provisions are "adapted" to the case of guardians and rural district councillors by the general orders mentioned in the note to sub-sect. (2) of this section.

Sub-s. (5).

The words in italics are repealed by the London Government Act, 1899 (62 & 63 Vict. c. 14), s. 35 (2).

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beginning of one month before the first election under this Act a county council have not framed any such scale for their county, the Local Government Board may frame a scale for the county, and the scale so framed shall apply to the first election, and shall have effect as if it had been made by the county council, but shall not be alterable until after the first election.

(8) This section shall, subject to any adaptations made by the said rules, apply in the case of every poll consequent on a parish meeting, as if it were a poll for the election of parish councillors.

Provision as to parish meeting for part of parish.

XLIX. Where a parish meeting is required or authorized in pursuance of this Act to be held for a ward or other part of a parish, then—

(*a.*) The persons entitled to attend and vote at the meeting, or at any poll consequent thereon, shall be the parochial electors registered in respect of qualifications in that ward or part; and

(*b.*) The provisions of this Act with respect to parish meetings for the whole of a parish, including the provisions with respect to the convening of a parish meeting by parochial electors, shall apply as if the ward or part were the whole parish.

Supplemental provisions as to overseers.

L. If, in the case of a rural parish or of any urban parish in respect to which the power of appointing overseers has been transferred under this Act, notice in the prescribed form of the appointment of overseers is not received by the guardians of the poor law union comprising the parish within three weeks after the fifteenth day of April, or after the occurrence of a vacancy in the office of overseer, as the case may be, the guardians shall make the appointment or fill the vacancy, and any overseer appointed by the guardians shall supersede any overseer previously appointed whose appointment has not been notified. Any such notice shall be admissible as evidence that the appointment has been duly made.

*Parish and District Councils.*

Public notices.

LI. A public notice given by a parish council for the purposes of this Act, or otherwise for the execution of their duties, and a public notice of a parish meeting, shall be given in the manner required for giving notice of vestry meetings, and by posting the notice in some conspicuous place or places within the parish, and in such other manner (if any) as appears to the

Sect. 50. Note.

Power of appointing overseers for an urban parish may be transferred under sect. 33 (1) of this Act.

Sect. 51. Note.

Notices of vestry meetings are regulated by the Vestries Act, 1818 (58 Geo. 3, c. 69), s. 1, and the Parish Notices Act, 1837 (7 Will. 4 & 1 Vict. c. 45), s. 2. And see schedule 1, part 1, rr. (2), (5), of this Act.

council or to the persons convening the meeting desirable for giving publicity to the notice. Sect. 51.

Supplemental provisions as to transfer of powers. 17 & 18 Vict. c. 112.

LII.—(1) Any power which may be exercised and any consent which may be given by the owners and ratepayers of a parish or by the majority of them under any of the Acts relating to the relief of the poor or under the School Sites Acts or the Literary and Scientific Institutions Act, 1854, so far as respects the dealing with parish property or the spending of money or raising of a rate may, in the case of a rural parish, be exercised or given by the parish meeting of the parish.

33 & 34 Vict. c. 75. 39 & 40 Vict. c. 79.

(2) In a rural parish the power of making an application or passing a resolution given by section twelve of the Elementary Education Act, 1870, and by section forty-one of the Elementary Education Act, 1876, to the electing body mentioned in the former section shall be transferred to the parish meeting of the parish, and shall in cases under the latter section be exerciseable by the like majority of the parish meeting, and, if a poll is taken, of the parochial electors, as is required by that section in the case of the said electing body, and rule two of the second part of the second schedule to the former Act with respect to the passing of such resolutions shall not apply.

(3) The consent of justices shall not be required for the sale of land belonging to a parish which has been used for materials for the repair of highways or for the purchase of land with the proceeds of any such sale.

(4) Where the legal estate in any property is vested in the churchwardens and overseers of any parish by virtue of the

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Note.

Sub-s. (1).

The consent of owners and ratepayers of a parish not separately represented by a guardian is required by the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 36, to an agreement to rate a union of parishes as though it were one parish; and by sect. 62 of the same Act, the owners and ratepayers of a parish may direct certain monies to be raised and advanced for the purposes of emigration.

The only assent of owners and ratepayers required under any of the School Sites Acts, is that required by the School Sites Act, 1841 (4 & 5 Vict. c. 38), s. 6, for the conveyance of parochial property for a school site. A similar assent to the conveyance of parochial property as a site for a literary or scientific institution is required by the Literary and Scientific Institutions Act, 1854 (17 & 18 Vict. c. 112), s. 6.

Sub-s. (3).

The consent of justices was required under the Highway Act, 1835 (5 & 6 Will. 4, c. 50), s. 48.

Sub-s. (4).

Orders vesting charity lands in the official trustee of charity lands may be made by the Chancery Division of the High Court of Justice under the Charitable Trusts Act, 1853 (16 & 17 Vict. c. 137), s. 48, as amended by the Charitable Trusts Amendment Act, 1855 (18 & 19 Vict. c. 124), s. 15; and similar vesting orders may be made by the Charity Commissioners under the Charitable Trusts Act, 1860 (23 & 24 Vict. c. 136) s. 2. Churchwardens and overseers were made a corporation for the purpose of holding parish lands

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59 Geo. 3, c. 12.

Poor Relief Act, 1819, nothing in the Charitable Trusts Acts, 1853 to 1891, shall be deemed to require the consent of such churchwardens and overseers in their capacity as a corporation under that Act, or of the parish council as their successors, to a vesting order under those Acts dealing with the said legal estate. Provided that nothing in this section shall affect any rights, powers, or duties of the churchwardens and overseers or the parish council, in cases where they have active powers of management.

(5) All enactments in any Act, whether general or local and personal, relating to any powers, duties, or liabilities transferred by this Act to a parish council or parish meeting from justices or the vestry or overseers or churchwardens and overseers shall, subject to the provisions of this Act and so far as circumstances admit, be construed as if any reference therein to justices or to the vestry, or to the overseers, or to the churchwardens and overseers, referred to the parish council or parish meeting as the case requires, and the said enactments shall be construed with such modifications as may be necessary for carrying this Act into effect.

Supplemental provisions as to adoptive Acts.

LIII.—(1) Where on the appointed day any of the adoptive Acts is in force in a part only of a rural parish, the existing authority under the Act, or the parish meeting for that part, may transfer the powers, duties, and liabilities of the authority to the parish council, subject to any conditions with respect to the execution thereof by means of a committee as to the authority or parish meeting may seem fit, and any such conditions may be altered by any such parish meeting.

(2) If the area on the appointed day under any authority under any of the adoptive Acts will not after that day be comprised within one rural parish, the powers and duties of the authority shall be transferred to the parish councils of the rural parishes wholly or partly comprised in that area, or, if the area is partly comprised in an urban district, to those parish councils and the district council of the urban district, and shall, until other provision is made in pursuance of this Act, be exercised by a joint committee appointed by those

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Sect. 52. Note. Sub-s. (4).

by the Poor Relief Act, 1819 (59 Geo. 3, c. 12), s. 17. The effect of this sub-section is to get rid of the decision in *Ex parte Nicholls, Re The Hackney Charities*, 34 L. J. Ch. 169, to the effect that the consent of the churchwardens and overseers as a corporation was necessary to give jurisdiction to the Charity Commissioners to make a vesting order of charity lands held in trust to allow the churchwardens to distribute the rents among the poor of the parish.

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Sect. 53. Note. Sub-s. (1). Sub-s. (2).

The adoptive Acts are those mentioned in sect. 7 of this Act.

This sub-section is modified, so far as it relates to the appointment and powers of a joint committee appointed for carrying the Burial Acts into execution by the Local Government (Joint Committees) Act, 1897 (60 & 61 Vict. c. 40).

councils. Where any such rural parish has not a parish council the parish meeting shall, for the purposes of this provision, be substituted for the parish council.

(3) The property, debts, and liabilities of any authority under any of the adoptive Acts whose powers are transferred in pursuance of this Act shall continue to be the property, debts, and liabilities of the area of that authority, and the proceeds of the property shall be credited, and the debts and liabilities and the expenses incurred in respect of the said powers, duties, and liabilities, shall be charged to the account of the rates or contributions levied in that area, and where that area is situate in more than one parish the sums credited to and paid by each parish shall be apportioned in such manner as to give effect to this enactment.

(4) The county council on the application of a parish council may, by order, alter the boundaries of any such area if they consider that the alteration can properly be made without any undue alteration of the incidence of liability to rates and contributions or of the right to property belonging to the area, regard being had to any corresponding advantage to persons subject to the liability or entitled to the right.

Effect on parish council of constitution of urban district.

LIV.—(1) Where a new borough is created, or any other new urban district is constituted, or the area of an urban district is extended, then—

(*a.*) As respects any rural parish or part of a rural parish which will be comprised in the borough or urban district, provision shall be made, either by the constitution of a new parish, or by the annexation of the parish or parts thereof to another parish or parishes, or otherwise, for the appointment of overseers and for placing the parish or part in the same position as other parishes in the borough or district, and

(*b.*) As respects any parish or part which remains rural, provision shall be made for the constitution of a new parish council for the same, or for the annexation of the parish or part to some other parish or parishes, or otherwise for the government of the parish or part, and

(*c.*) Provision shall also where necessary be made for the adjustment of any property, debts and liabilities affected by the said creation, constitution, or extension.

(2) The provision aforesaid shall be made—

(*a.*) Where a new borough is created, by a scheme under section two hundred and thirteen of the Municipal Corporations Act, 1882; 45 & 46 Vict. c. 50.

(*b.*) Where any other new urban district is constituted, by an order of the county council under section fifty-seven of the Local Government Act, 1888; 51 & 52 Vict. c. 41.

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(c.) Where the area of an urban district is extended, by an order of the Local Government Board under section fifty-four, or of the county council under section fifty-seven, as the case may be, of the Local Government Act, 1888.

(3) Where the area of an urban district is diminished this section shall apply with the necessary modifications.

Power to change name of district or parish.

LV.—(1) Where a parish is divided or united or grouped with another parish by an order in pursuance of this Act each new parish or group so formed shall bear such name as the order directs.

(2) Where a parish is divided by this Act, each parish so formed shall bear such name as the county council direct.

(3) Any district council may, with the sanction of the county council, change their name and the name of their district.

(4) Every change of name made in pursuance of this section shall be published in such manner as the authority authorizing the change may direct, and shall be notified to the Local Government Board.

(5) Any such change of name shall not affect any rights or obligations of any parish, district, council, authority, or person, or render defective any legal proceedings, and any legal proceedings may be continued or commenced as if there were no change of name.

Committees of parish or district councils.

LVI.—(1) A parish or district council may appoint committees, consisting either wholly or partly of members of the council, for the exercise of any powers which, in the opinion of the council, can be properly exercised by committees, but a committee shall not hold office beyond the next annual meeting of the council, and the acts of every such committee shall be submitted to the council for their approval.

Provided that where a committee is appointed by any district council for any of the purposes of the Public Health Acts or Highway Acts, the council may authorize the committee to institute any proceeding or do any act which the council might have instituted or done for that purpose other than the raising of any loan or the making of any rate or contract.

(2) Where a parish council have any powers and duties which are to be exercised in a part only of the parish, or in relation to a recreation ground, building, or property held for the benefit of a part of a parish, and the part has a defined boundary, the parish council shall, if required by a parish meeting held for that part, appoint annually to exercise such powers and duties a committee consisting partly of members of the council and partly of other persons representing the said part of the parish.

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(3) With respect to committees of parish and district councils the provisions in the first schedule to this Act shall have effect.

(4) This section shall not apply to the council of a borough.

Joint committees.

LVII.—(1) A parish or district council may concur with any other parish or district council or councils in appointing out of their respective bodies a joint committee for any purpose in respect of which they are jointly interested, and in conferring, with or without conditions or restrictions, on any such committee any powers which the appointing council might exercise if the purpose related exclusively to their own parish or district.

(2) Provided that a council shall not delegate to any such committee any power to borrow money or make any rate.

(3) A joint committee appointed under this section shall not hold office beyond the expiration of fourteen days after the next annual meeting of any of the councils who appointed it.

(4) The costs of a joint committee under this section shall be defrayed by the councils by whom it is appointed in such proportions as they may agree upon, or as may be determined in case of difference by the county council.

(5) Where a parish council can under this Act be required to appoint a committee consisting partly of members of the council and partly of other persons, that requirement may also be made in the case of a joint committee, and shall be duly complied with by the parish councils concerned at the time of the appointment of such committee.

Audit of accounts of district and parish councils and inspection.

LVIII.—(1) The accounts of the receipts and payments of parish and district councils, and of parish meetings for parishes not having parish councils, and their committees and officers, shall be made up yearly to the thirty-first day of March, or in the case of accounts which are required to be audited half-yearly, then half-yearly to the thirtieth day of September and the thirty-first day of March in each year, and in such form as the Local Government Board prescribe.

(2) The said accounts shall, except in the case of accounts audited by the auditors of a borough, (but inclusive of the accounts of a joint committee appointed by a borough council with another council not being a borough council,) be audited by a district auditor, and the enactments relating to audit by district auditors of accounts of urban sanitary authorities and

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Note.

Sub-s. (1).

The poor law accounts of the union and of the parishes comprised therein are directed by art. 38 of the General Order for Accounts, January 14th, 1867, to be audited half-yearly, as soon as may be after March 25th and September 29th in each year. No alteration is made in this respect by this sub-section.

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their officers, and to all matters incidental thereto and consequential thereon, shall apply accordingly, except that in the case of the accounts of rural district councils, their committees and officers, the audit shall be half-yearly instead of yearly.

(3) The Local Government Board may, with respect to any audit to which this section applies, make rules modifying the enactments as to publication of notice of the audit and of the abstract of accounts and the report of the auditor.

(4) Every parochial elector of a rural parish may, at all reasonable times, without payment, inspect and take copies of and extracts from all books, accounts, and documents belonging to or under the control of the parish council of the parish or parish meeting.

(5) Every parochial elector of a parish in a rural district may, at all reasonable times, without payment, inspect and take copies of and extracts from all books, accounts, and documents belonging to or under the control of the district council of the district.

Supplemental provisions as to district councils.

38 & 39 Vict. c. 55.

LIX.—(1) Section one hundred and ninety-nine and Schedule I. of the Public Health Act, 1875, so far as that schedule is unrepealed (which relate to the meetings of urban authorities, and to the meetings and proceedings of local boards), shall apply in the case of every urban district council other than a borough council and of every rural district council and board of guardians, as if such district council or board were a local board, except that the chairman of the council or board may be elected from outside the councillors or guardians.

(2) Any urban district council other than a borough council, and any rural district council and board of guardians may, if they think fit, appoint a vice-chairman to hold office during the term of office of the chairman, and the vice-chairman shall in the absence or during the inability of the chairman, have the powers and authority of the chairman.

(3) Any rural district council shall be entitled to use for the purpose of their meetings and proceedings the board room and offices of any board of guardians for the union comprising their district at all reasonable hours, and if any question arises

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Note. Sub-s. (1).

The Poor Law Commissioners had, and the Local Government Board now have, power under the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 15, to make rules with respect to the proceedings of guardians, and the power is reserved to them by sub-sect. (4) of this section. In exercise of this power arts. 28—43 of the Gen. Cons. Order, July 24th, 1847, were framed, but it is apprehended that all of such articles as deal with the same matters as are dealt with by sect. 199 and schedule 1 of the Public Health Act, 1875, are by virtue of this sub-section superseded by those provisions of the Public Health Act, 1875.

as to what hours are reasonable it may be determined by the Local Government Board. Sect. 59.

(4) Nothing in this section shall affect any powers of the Local Government Board with respect to the proceedings of guardians.

(5) If any district council, other than a borough council, become unable to act, whether from failure to elect or otherwise, the county council of the county in which the district is situate may order elections to be held and may appoint persons to form the district council until the newly-elected members come into office.

(6) Nothing in this Act shall affect any powers of the Secretary of State under the Public Health Supplemental Act for Aldershot, 1857, or the position of persons nominated under those powers. 20 & 21 Vict. c. 22.

*Miscellaneous.*

LX.—(1) The council of each county may, from time to time, by order, fix or alter the number of guardians or rural district councillors to be elected for each parish within their county, and for those purposes may exercise powers of adding parishes to each other and dividing parishes into wards, similar to those which by the Acts relating to the relief of the poor are, for the purpose of the election of guardians, vested in the Local Government Board. Supplemental provisions as to guardians.

(2) The council of each county may for the purpose of regulating the retirement of guardians or rural district councillors, in cases where they retire by thirds, and in order that as nearly as may be one-third of the persons elected as guardians for the union, and one-third of the persons elected as rural district councillors for the district, shall retire in each year, direct in which year or years of each triennial period the guardians or district councillors for each parish, ward, or other area in the union or rural district shall retire.

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Note.

Sub-s. (1).

Before the passing of this Act the power of fixing and altering the number of guardians to be elected for any parish was vested exclusively in the Local Government Board by virtue of the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 38, and the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 18. The power of adding parishes to each other for the purpose of election of guardians was vested in the Local Government Board by the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 6; and the power of dividing parishes into wards for the same purpose by the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 12.

Sub-s. (2).

Guardians will retire by thirds unless they retire simultaneously every third year under the provisions of sect. 20 (6), *supra*. The order in which guardians first elected under this Act were to retire was provided for by sect. 79 (3), *infra*.

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(3) Where a poor law union is situate in more than one county, the power under this section of fixing or altering the number of guardians or rural district councillors, and of regulating the retirement of guardians and of district councillors, shall be exercised by a joint committee of the councils of the counties concerned, but if any of those councils do not, within two months after request from any of them, appoint members of such joint committee, the members of the committee actually appointed shall act as the joint committee.

Provided that if any order under this sub-section is, within six weeks after the making thereof, objected to by any of the county councils concerned, or by any committee of any of those councils authorized in that behalf, it shall be of no effect until confirmed by the Local Government Board.

(4) Where under any local and personal Act guardians of a poor law union are elected for districts, whether called by that name or not, the provisions of this Act with respect to the election of guardians shall apply as if each of the districts were a parish.

(5) The board of guardians of a union elected in pursuance of this Act shall, save as otherwise provided by an order of the Local Government Board, made on the application of those guardians, have the same powers and duties under any local and personal Act as the existing board of guardians.

(6) Nothing in this Act shall alter the constitution of the corporation of the guardians of the poor within the city of Oxford, or the election or qualification of the members thereof, except those members who are elected by the ratepayers of parishes.

Place of meeting of parish or district council or board of guardians.

LXI. No parish meeting or meeting of a parish council, or of a district council, or of a board of guardians shall be held in premises licensed for the sale of intoxicating liquor, except in cases where no other suitable room is available for such meeting either free of charge or at a reasonable cost.

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The appointment of joint committees by county councils is regulated by sect. 81 of the Local Government Act, 1888.

Note.

Sub-s. (3).

By the District Councillors and Guardians (Term of Office) Act, 1900 (63 & 64 Vict. c. 16), s. 1 (3), it is provided as follows: "Where an order made in pursuance of this section rescinds an order made in pursuance of sect. 60, sub-sect. (3), of the Local Government Act, 1894, the proviso to that sub-section shall apply as if the first-mentioned order were made under the said sub-section."

Sub-ss. (4)-(6).

So much of any enactment, whether in a public, general, or local or personal Act, as relates to the *qualification* of a guardian is repealed by sect. 20 (2), *supra*, and as relates to the mode of election of a guardian by sect. 89, *infra*.

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Permissive transfer to urban district council of powers of other authorities.

LXII.—(1) Where there is in any urban district, or part of an urban district, any authority constituted under any of the adoptive Acts, the council of that district may resolve that the powers, duties, property, debts, and liabilities of that authority shall be transferred to the council as from the date specified in the resolution, and upon that date the same shall be transferred accordingly, and the authority shall cease to exist, and the council shall be the successors of that authority.

(2) After the appointed day any of the adoptive Acts shall not be adopted for any part of an urban district without the approval of the council of that district.

Provisions as to county council acquiring powers of district council.

LXIII.—(1) Where the powers of a district council are by virtue of a resolution under this Act transferred to a county council, the following provisions shall have effect :—

(*a.*) Notice of the resolution of the county council by virtue of which the transfer is made shall be forthwith sent to the district council and to the Local Government Board :

(*b.*) The expenses incurred by the county council shall be a debt from the district council to the county council, and shall be defrayed as part of the expenses of the district council in the execution of the Public Health Acts, and the district council shall have the like power of raising the money as for the defraying of those expenses :

(*c.*) The county council for the purpose of the powers transferred may on behalf of the district council borrow subject to the like conditions, in the like manner, and on the security of the like fund or rate, as the district council might have borrowed for the purpose of those powers :

(*d.*) The county council may charge the said fund or rate with the payment of the principal and interest of the loan, and the loan with the interest thereon shall be paid by the district council in like manner, and the charge shall have the like effect, as if the loan were lawfully raised and charged on that fund or rate by the district council :

(*e.*) The county council shall keep separate accounts of all receipts and expenditure in respect of the said powers :

(*f.*) The county council may by order vest in the district council all or any of the powers, duties, property, debts, and liabilities of the county council in relation to any of the said powers, and the property, debts, and liabilities so vested shall be deemed to have been acquired or incurred by the district council for the purpose of those powers.

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Note.

When an urban district council, under the power given by this section, take over the powers, duties, and liabilities of a burial board within their district, the expenses of carrying the Burial Acts into execution continue to be chargeable upon and payable out of the poor rate, and are not chargeable upon or payable out of the council's general district rate. *Rex* v. *Connah's Quay* [1901] 2 K. B. 174.

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(2) Where a rural district is situate in two or more counties a parish council complaining under this Act may complain to the county council of the county in which the parish is situate, and if the subject matter of the complaint affects any other county the complaint shall be referred to a joint committee of the councils of the counties concerned, and any question arising as to the constitution of such joint committee shall be determined by the Local Government Board, and if the members of the joint committee are not appointed, the members who are actually appointed shall act as the joint committee.

Power to act through district council.

LXIV. A county council may employ a district council as their agents in the transaction of any administrative business on matters arising in, or affecting the interests of, its own district.

Saving for harbour powers.

LXV. Where any improvement commission affected by this Act have any powers, duties, property, debts, or liabilities in respect of any harbour, the improvement commission shall continue to exist and be elected for the purpose thereof, and shall continue as a separate body, as if this Act had not passed, and the property, debts, and liabilities shall be apportioned between the district council for the district and the commission so continuing, and the adjustment arising out of the apportionment shall be determined in manner provided by this Act.

Saving for elementary schools.

LXVI. Nothing in this Act shall affect the trusteeship, management, or control of any elementary school.

Transfer of property and debts and liabilities.

LXVII. Where any powers and duties are transferred by this Act from one authority to another authority—

(1) All property held by the first authority for the purpose or by virtue of such powers and duties shall pass to and vest in the other authority, subject to all debts and liabilities affecting the same; and

(2) The latter authority shall hold the same for the estate, interest, and purposes, and subject to the covenants, conditions, and restrictions for and subject to which the property would have been held if this Act had not passed, so far as the same are not modified by or in pursuance of this Act; and

(3) All debts and liabilities of the first authority incurred by virtue of such powers and duties shall become debts and liabilities of the latter authority, and be defrayed out of the like property and funds out of which they would have been defrayed if this Act had not passed.

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Sect. 67.

Note.

This section applies, *inter alia*, to the transfer to a rural district council of the powers and duties of the guardians acting as a rural sanitary authority under sect. 25, *supra*.

Sect. 68.

Adjustment of property and liabilities.

LXVIII.—(1) Where any adjustment is required for the purpose of this Act, or of any order, or thing made or done under this Act, then, if the adjustment is not otherwise made, the authorities interested may make agreements for the purpose, and may thereby adjust any property, income, debts, liabilities, and expenses, so far as affected by this Act, or such scheme, order, or thing, of the parties to the agreement.

(2) The agreement may provide for the transfer or retention of any property, debts, or liabilities, with or without any conditions, and for the joint use of any property, and for payment by either party to the agreement in respect of property, debts, and liabilities so transferred or retained, or of such joint user, and in respect of the salary or remuneration of any officer or person, and that either by way of an annual payment or, except in the case of a salary or remuneration, by way of a capital sum, or of a terminable annuity for a period not exceeding that allowed by the Local Government Board: Provided that where any of the authorities interested is a board of guardians, any such agreement, so far as it relates to the joint use of any property, shall be subject to the approval of the Local Government Board.

(3) In default of an agreement, and as far as any such agreement does not extend, such adjustment shall be referred to arbitration in accordance with the Arbitration Act, 1889, and the arbitrator shall have power to disallow as costs in the arbitration the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers to have been incurred unnecessarily, and his award may provide for any matter for which an agreement might have provided. 52 & 53 Vict. c. 49.

(4) Any sum required to be paid by any authority for the purpose of adjustment may be paid as part of the general expenses of exercising their duties under this Act, or out of such special fund as the authority, with the approval of the Local Government Board, direct, and if it is a capital sum the payment thereof shall be a purpose for which the authority may borrow under the Acts relating to such authority, on the

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Note.

Sub-s. (1).

As to the matters that may properly be taken into consideration upon making an adjustment consequent upon the transfer of a portion of one union to another union and referred to arbitration, see *Rochdale Union* v. *Haslingden Union*, [1899] 1 Q. B. 540. In that case the alteration in the unions was made by the county council. When the alteration is made by the Local Government Board the adjustment is made by that board under the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 32, or the Dissolved Boards of Management and Guardians Act, 1870 (33 Vict. c. 2), s. 4. If in the opinion of the board no adjustment is necessary none need be made. (See Divided Parishes and Poor Law Amendment Act, 1882 (45 & 46 Vict. c. 58), s. 11.)

Sub-s. (4).

Guardians may borrow under the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 2.

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security of all or any of the funds, rates, and revenues of the authority, and any such sum may be borrowed without the consent of any authority, so that it be repaid within such period as the Local Government Board may sanction.

(5) Any capital sum paid to any authority for the purpose of any adjustment under this Act shall be treated as capital, and applied with the sanction of the Local Government Board, either in the repayment of debt or for any other purpose for which capital money may be applied.

Power to deal with matters arising out of alteration of boundaries.

LXIX. Where an alteration of any area is made by this Act, an order for any of the matters mentioned in section fifty-nine of the Local Government Act, 1888, may, if it appears to the county council desirable, be made by the county council, or, in the case of an area situate in more than one county, by a joint committee of county councils, but nothing in this section shall empower a county council or joint committee to alter the boundaries of a county.

Summary proceeding for determination of questions as to transfer of powers.

LXX.—(1) If any question arises, or is about to arise, as to whether any power, duty, or liability is or is not transferred by or under this Act to any parish council, parish meeting, or district council, or any property is or is not vested in the parish council, or in the chairman and overseers of a rural parish, or in a district council, that question, without prejudice to any other mode of trying it, may, on the application of the council, meeting, or other local authority concerned, be submitted for decision to the High Court in such summary manner as, subject to any rules of court, may be directed by the court; and the court, after hearing such parties and taking such evidence (if any) as it thinks just, shall decide the question.

(2) If any question arises or is about to arise under this Act as to the appointment of the trustees or beneficiaries of any charity, or as to the persons in whom the property of any charity is vested, such question shall, at the request of any trustee, beneficiary, or other person interested, be determined in the first instance by the Charity Commissioners, subject to an appeal to the High Court brought within three months after such determination. Provided that an appeal to the High Court of Justice from any determination of the Charity Commissioners under this section may be presented only under the same conditions as are prescribed in the case of appeals to the High Court from orders made by the Charity Commissioners under the Charitable Trusts Acts, 1853 to 1891.

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Note. Sub-s. (1).

Rules of court were made in pursuance of this sub-section dated December 10th, 1894, and April 6th, 1895, declaring that the summary proceeding for submitting any question for decision to the High Court should be by special case. These rules are printed in the "Annual Practice."

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(3) An appeal shall, with the leave of the High Court or Court of Appeal, but not otherwise, lie to the Court of Appeal against any decision under this section.

Supplemental provisions as to county council orders.

LXXI. A copy of every order made by a county council or joint committee in pursuance of this Act shall be sent to the Local Government Board, and, if it alters any local area or name, also to the Board of Agriculture.

Provisions as to local inquiries.

LXXII.—(1) The expenses incurred by the Local Government Board in respect of inquiries or other proceedings under this Act shall be paid by such authorities and persons and out of such funds and rates as the board may by order direct, and the board may certify the amount of the expenses so incurred, and any sum so certified and directed by the board to be paid by any authority or person shall be a debt from that authority or person to the Crown.

(2) Such expenses may include the salary of any inspector or officer of the board engaged in the inquiry or proceeding, not exceeding three guineas a day.

(3) The Local Government Board and their inspectors shall have for the purposes of an inquiry in pursuance of this Act the same powers as they respectively have for the purpose of an inquiry under the Public Health Act, 1875.

(4) Where a county council hold a local inquiry under this Act or under the Local Government Act, 1888, on the application of the council of a parish or district, or of any inhabitants of a parish or district, the expenses incurred by the county council in relation to the inquiry (including the expenses of any committee or person authorized by the county council) shall be paid by the council of that parish or district, or, in the case of a parish which has not a parish council, by the parish meeting; but, save as aforesaid, the expenses of the county council incurred in the case of inquiries under this Act shall be paid out of the county fund.

Provision as to Sundays and bank holidays.

LXXIII. When the day on which any thing is required by or in pursuance of this Act to be done is Sunday, Christmas Day, or Good Friday, or a bank holiday, that thing shall be done on the next following day, not being one of the days above mentioned.

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Note. Sub-s. (3).

Sect. 296 of the Public Health Act, 1875, provides that "Inspectors of the Local Government Board shall for the purposes of any inquiry directed by the board have, in relation to witnesses and their examination, the production of papers and accounts, and the inspection of places and matters required to be inspected, similar powers to those which poor law inspectors have under the Acts relating to the relief of the poor for the purposes of those Acts." The powers of poor law inspectors are conferred by the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 12, and the Poor Law Board Act (10 & 11 Vict. c. 109), ss. 20, 21.

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Provisions as to Scilly Islands.

51 & 52 Vict. c. 41.

LXXIV. This Act shall be deemed to be an Act touching local government within the meaning of section forty-nine of the Local Government Act, 1888, and a provisional order for the Scilly Islands may, on the application of the council of the Isles of Scilly, and after such public notice as appears to the Local Government Board sufficient for giving information to all persons interested, be made accordingly.

Construction of Act.

51 & 52 Vict. c. 41.

LXXV.—(1) The definition of "parish" in section one hundred of the Local Government Act, 1888, shall not apply to this Act, but, save as aforesaid, expressions used in this Act shall, unless the context otherwise requires, have the same meaning as in the said Act.

(2) In this Act, unless the context otherwise requires—

Any reference to population means the population according to the census of one thousand eight hundred and ninety-one.

The expression "parochial elector," when used with reference to a parish in an urban district, or in the county of London or any county borough, means any person who would be a parochial elector of the parish if it were a rural parish.

The expression "election" includes both the nomination and the poll.

The expression "trustees" includes persons administering or managing any charity or recreation ground, or other property or thing in relation to which the word is used.

The expression "ecclesiastical charity" includes a charity, the endowment whereof is held for some one or more of the following purposes:—

(*a.*) For any spiritual purpose which is a legal purpose; or

(*b.*) For the benefit of any spiritual person or ecclesiastical officer as such; or

(*c.*) For use, if a building, as a church, chapel, mission room, or Sunday school, or otherwise by any particular church or denomination; or

(*d.*) For the maintenance, repair, or improvement of any such building as aforesaid, or for the maintenance of divine service therein; or

(*e.*) Otherwise for the benefit of any particular church or denomination, or of any members thereof as such.

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Sect. 75. Note. Sub-s. (1).

The definition of "parish" in the Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 5, applies, whereby parish means "as respects England and Wales, a place for which a separate poor rate is or can be made, or for which a separate overseer is or can be appointed."

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Provided that where any endowment of a charity, other than a building held for any of the purposes aforesaid, is held in part only for some of the purposes aforesaid, the charity, so far as that endowment is concerned, shall be an ecclesiastical charity within the meaning of this Act; and the Charity Commissioners shall, on application by any person interested, make such provision for the apportionment and management of that endowment as seems to them necessary or expedient for giving effect to this Act.

The expression shall also include any building which in the opinion of the Charity Commissioners has been erected or provided within forty years before the passing of this Act mainly by or at the cost of members of any particular church or denomination.

The expression "affairs of the church" shall include the distribution of offertories or other collections made in any church.

The expression "parochial charity" means a charity the benefits of which are or the separate distribution of the benefits of which is confined to inhabitants of a single parish, or of a single ancient ecclesiastical parish divided into two or more parishes, or of not more than five neighbouring parishes.

The expression "vestry" in relation to a parish means the inhabitants of the parish whether in vestry assembled or not, and includes any select vestry either by statute or at common law.

The expression "rateable value" means the rateable value stated in the valuation list in force, or, if there is no such list, in the last poor rate.

The expression "county" includes a county borough, and the expression "county council" includes the council of a county borough.

The expression "elementary school" means an elementary school within the meaning of the Elementary Education Act, 1870. 33 & 34 Vict. c. 75.

The expression "local and personal Act" includes a provisional order confirmed by an Act and the Act confirming the order.

The expression "prescribed" means prescribed by order of the Local Government Board.

Extent of Act.

LXXVI. This Act shall not extend to Scotland or Ireland.

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Note. Sub-s. (2).

As to the meaning of "local and personal Act," see *Reg.* v. *London County Council*, [1893] 2 Q. B. 454; 63 L. J. Q. B. 4; 69 L. T. 580; 42 W. R. 1; 58 J. P. 21.

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Short title.

LXXVII. This Act may be cited as the Local Government Act, 1894.

## PART V.

### TRANSITORY PROVISIONS.

First elections to parish councils.

LXXVIII.—(1) The overseers of each rural parish shall convene the first parish meeting of the parish at the time fixed by or under this Act for the first election of parish councillors, whether there is or is not a parish council for the parish, and for this purpose the overseers of a parish shall be deemed to be the overseers of every part of the parish.

(2) The chairman of the parish meeting at which the first parish councillors are nominated, or in his default the clerk of the guardians, shall convene the first meeting of the parish council.

(3) The first parish councillors and the first chairman of a parish meeting elected under this Act shall retire on the second ordinary day of coming into office of councillors which happens after their election.

First elections of guardians and district councils.

LXXIX.—(1) The existing boards of guardians and urban and rural sanitary authorities shall take the necessary measures for the conduct of the first elections of guardians and district councillors respectively under this Act, including any appointment of returning officers required by rules under this Act.

(2) Where a parish is divided by this Act into two or more new parishes, then, subject to any order made by the county council there shall be one guardian, and if it is in a rural district, one district councillor for each of such new parishes.

(3) Of the guardians and urban and rural district councillors first elected under this Act, save as herein-after mentioned, one-third as nearly as may be shall continue in office until the fifteenth day of April one thousand eight hundred and ninety-six, and shall then retire; and one-third as nearly as may be shall continue in office until the fifteenth day of April one thousand eight hundred and ninety-seven, and shall then retire; and the remainder shall continue in office until the fifteenth day of April one thousand eight hundred and ninety-eight, and shall then retire.

(4) The guardians and rural district councillors to retire respectively on the fifteenth day of April one thousand eight hundred and ninety-six and on the fifteenth day of April one thousand eight hundred and ninety-seven shall be the guardians and rural district councillors for such parishes, wards, or other areas, as may be determined by the county council for the purpose of the rotation.

(5) Where guardians or rural district councillors retire

together at the end of the triennial period, the guardians and district councillors first elected under this Act shall retire on the fifteenth day of April one thousand eight hundred and ninety-eight.

(6) Of the first urban district councillors elected under this Act, the third who are respectively to retire on the fifteenth day of April one thousand eight hundred and ninety-six and one thousand eight hundred and ninety-seven shall be determined according to their place on the poll at the election, those that were lowest on the poll retiring first. If there was no poll, or if a question arises in consequence of an equality of votes between two or more councillors, the matter shall be determined by ballot conducted under the direction of the council.

(7) In the case of an urban district divided into wards, the foregoing provisions with respect to retirement shall apply separately to each ward.

(8) Upon the day on which the first guardians and urban or rural district councillors elected under this Act come into office, the persons who are then members of boards of guardians, and urban and rural sanitary authorities, shall cease to hold office, but until that day the persons who are at the passing of this Act guardians and members of urban sanitary authorities (for urban districts not being boroughs) and of highway boards shall continue in office notwithstanding any want of qualification, as if the term of office for which they were elected expired on that day, and, except for the purpose of filling casual vacancies or electing additional guardians, no further elections shall be held.

(9) The first meeting of each district council elected under this Act shall be convened by the returning officer.

(10) The foregoing provisions shall apply to the existing members and first members elected under this Act of the local board of Woolwich and of any vestry under the Metropolis Management Acts, 1855 to 1890, and any Act amending the same, and to the existing and first auditors elected under those Acts in like manner as if they were members of urban sanitary authorities or urban district councillors, as the case may require, except that the date of the annual election shall be substituted for the fifteenth day of April.

(11) The overseers of any parish divided by this Act shall, until the first appointment of overseers next after the appointed day, continue in office as if they were overseers of each part of the said parish, which by reason of such division becomes a separate parish.

Power of county council to remove difficulties.

LXXX.—(1) If any difficulty arises with respect to the holding of the first parish meeting of a rural parish, or to the first election of parish or district councillors, or of guardians, or of members of the local board of Woolwich, or any vestry in

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the county of London, or of auditors in the county of London, or to the first meeting of a parish or district council, or board of guardians, or such local board or vestry as aforesaid, or if, from no election being held or an election being defective or otherwise, the first parish or district council, or board of guardians, or local board or vestry has not been properly constituted, or there are no auditors under the Metropolis Management Acts, 1855 to 1890, or an insufficient number, properly elected, the county council may by order make any appointment or do any thing which appears to them necessary or expedient for the proper holding of any such first meeting or election and properly constituting the parish or district council, board of guardians, local board, or vestry, or auditors, and may, if it appears to them necessary, direct the holding of a meeting or election, and fix the dates for any such meeting or election, but a parish shall, notwithstanding any such failure to constitute the parish council, be deemed to be a parish having a parish council within the meaning of this Act. Any such order may modify the provisions of this Act, and the enactments applied by or rules framed under this Act so far as may appear to the county council necessary or expedient for carrying the order into effect.

(2) The Local Government Board shall make regulations for expediting and simplifying the procedure under section fifty-seven of the Local Government Act, 1888, in all cases in the year one thousand eight hundred and ninety-four, for the purpose of bringing this Act into immediate operation, and such regulations may dispense with the final approval of an order by the county council in cases where the prescribed notice of the proposed order has been given before it is made by the county council.

Existing officers.

LXXXI.—(1) Where the powers and duties of any authority other than justices are transferred by this Act to any parish or district council, the officers of that authority shall become the officers of that council, and for the purposes of this section the body appointing a surveyor of highways shall be deemed to be a highway authority and any paid surveyor to be an officer of that body.

13 & 14 Vict. c. 57.

(2) Where there is in a rural parish an existing vestry clerk appointed under the Vestries Act, 1850, he shall become the clerk of the parish council, and if there is also an assistant overseer in the parish, then, notwithstanding the foregoing provisions of this Act, that assistant overseer shall not, while such vestry clerk holds office, be the clerk of the parish council.

(3) Any existing assistant overseer in a parish for which a

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Note. Sub-s. (3).

Assistant overseers were appointed by boards of guardians under sect. 61 of the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), now repealed by sub-sect. (6) of this section.

parish council is elected shall, unless appointed by a board of guardians, become an officer of the parish council. Sect. 81.

(4) Every such officer, vestry clerk, and assistant overseer, as above in this section mentioned shall hold his office by the same tenure and upon the same terms and conditions as heretofore, and while performing the same duties shall receive not less salary or remuneration than heretofore.

(5) Where a parish or rural sanitary district is divided by this Act, any officer for the parish or district so divided shall hold his office as such officer for each parish or district formed by the division, and his salary shall be borne by the respective parishes or districts in proportion to their rateable value at the commencement of the local financial year next after the passing of this Act.

(6) So much of any enactment as authorizes the appointment of assistant overseers by a board of guardians shall be repealed as from the appointed day.

(7) Section one hundred and twenty of the Local Government Act, 1888, which relates to compensation to existing officers, shall apply in the case of existing officers affected by this Act, whether officers above in this section mentioned or not, as if references in that section to the county council were references to the parish council, or the district council, or board of guardians, or other authority whose officer the person affected is when the claim for compensation arises as the case may require. Provided that all expenses incurred by a district council in pursuance of this section shall be paid as general expenses of the council, and any expenses incurred by a board of guardians in pursuance of this section shall be paid out of their common fund, and any expenses incurred by any other authority in pursuance of this section shall be paid out of the fund applicable to payment of the salary of the offices affected. 51 & 52 Vict. c. 41.

LXXXII.—(1) Where before the appointed day the highway expenses were charged on a particular parish or other area and not on a district, the district council may determine that the highways in that parish or area shall be placed in proper repair before the expenses of repairing the same become a charge upon the district, and, failing such highways being placed in proper repair to the satisfaction of the district council, the district council may themselves place the high ways in proper repair, and the expense incurred by them of placing those highways in proper repair shall be a separate charge on the parish or area, and any question which arises as to whether any such expenses are properly a separate charge on the parish or area shall be determined by the county council. Provision as to highways.

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Note.
Sub-s. (6).

This sub-section in effect repeals sect. 61 of the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), so far as it relates to the appointment of assistant overseers by guardians. (See the express repeal in schedule 2, *infra*.)

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(2) Where in pursuance of an order of a county council a parish continues to maintain its own highways after the appointed day, the highway expenses shall not be deemed to be expenses of the parish council or of the parish meeting within the meaning of this Act.

Duty of county council to bring Act into operation.

LXXXIII. It shall be the duty of every county council to exercise all such of their powers as may be requisite for bringing this Act into full operation within their county as soon as may be after the passing thereof, and a county council may delegate their powers under this Act to a committee.

Appointed day.

LXXXIV.—(1) The first elections under this Act shall be held on the eighth day of November next after the passing of this Act, or such later date or dates in the year one thousand eight hundred and ninety-four as the Local Government Board may fix.

(2) The persons elected shall come into office on the second Thursday next after their election, or such other day not more than seven days earlier or later as may be fixed by or in pursuance of the rules made under this Act in relation to their election.

(3) Every division into wards or alteration of the boundaries of any parish or union or district which is to affect the first election shall, if it affects the parishes or parts for which the registers of parochial electors will be made, be made so far as practicable before the first day of July next after the passing of this Act, and any such division or alteration which after the appointed day may be made on application by the parish council or any parochial electors of any parish, may be made before the appointed day on application by the vestry or a like number of the ratepayers of the parish.

Provided that—

(*a.*) If any county council having any such division or alteration under consideration so direct, the lists of voters shall be framed in parts corresponding with such division or alteration so that the parts may serve either for the unaltered parish, union, or district, or for the same when divided or altered; and

(*b.*) If the county council making such division or alteration on or after the said day and on or before the last day of August, one thousand eight hundred and ninety-four, so direct, the clerk of the county council shall make such adjustment of the registers of parochial electors as the division or alteration may render necessary for enabling every parochial elector to vote at the first election in the ward, union, or district in which his qualification is situate, and in that case the

said division or alteration shall be observed in the case of that election.

(4) Subject as in this Act mentioned, "the appointed day" shall,

(*a.*) For the purpose of elections and of parish meetings in parishes not having a parish council, be the day or respective days fixed for the first elections under this Act, or such prior days as may be necessary for the purpose of giving notices or doing other acts preliminary to such elections; and

(*b.*) For the purpose of the powers, duties, and liabilities of councils or other bodies elected under this Act, or other matters not specifically mentioned, be the day on which the members of such councils or other bodies first elected under this Act come into office; and

(*c.*) For the purpose of powers, duties, and liabilities transferred to a council of a borough by this Act, be the first day of November next after the passing of this Act;

and the lists and registers of parochial electors shall be made out in such parts as may be necessary for the purpose of the first elections under this Act.

Provided that where an order of a county council postpones the operation of the section with respect to highways as respects their county or any part thereof, the day on which such postponement ceases shall, as respects such county or part, be the appointed day, and the order of postponement shall make such provision as may be necessary for holding elections of highway boards during the interval before the appointed day.

Current rates, &c.

LXXXV.—(1) Every rate and precept for contributions made before the appointed day may be assessed, levied, and collected, and proceedings for the enforcement thereof taken, in like manner as nearly as may be as if this Act had not passed.

(2) The accounts of all receipts and expenditure before the appointed day shall be audited, and disallowances, surcharges, and penalties recovered and enforced, and other consequential proceedings had, in like manner as nearly as may be as if this Act had not passed, but as soon as practicable after the appointed day; and every authority, committee, or officer whose duty it is to make up any accounts, or to account for any portion of the receipts or expenditure in any account, shall, until the audit is completed, be deemed for the purpose of such audit to continue in office, and be bound to perform the same duties and render the same accounts and be subject to the same liabilities as before the appointed day.

(3) All proceedings, legal and other, commenced before the

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appointed day, may be carried on in like manner, as nearly as may be, as if this Act had not passed, and any such legal proceeding may be amended in such manner as may appear necessary or proper in order to bring it into conformity with the provisions of this Act.

(4) Every valuation list made for a parish divided by this Act shall continue in force until a new valuation list is made.

(5) The change of name of an urban sanitary authority shall not affect their identity as a corporate body or derogate from their powers, and any enactment in any Act, whether public general or local and personal, referring to the members of such authority shall, unless inconsistent with this Act, continue to refer to the members of such authority under its new name.

Saving for existing securities and discharge of debts.

LXXXVI.—(1) Nothing in this Act shall prejudicially affect any securities granted before the passing of this Act on the credit of any rate or property transferred to a council or parish meeting by this Act; and all such securities, as well as all unsecured debts, liabilities, and obligations incurred by any authority in the exercise of any powers or in relation to any property transferred from them to a council or parish meeting shall be discharged, paid, and satisfied by that council or parish meeting, and where for that purpose it is necessary to continue the levy of any rate or the exercise of any power which would have existed but for this Act, that rate may continue to be levied and that power to be exercised either by the authority who otherwise would have levied or exercised the same, or by the transferee as the case may require.

(2) It shall be the duty of every authority whose powers, duties, and liabilities are transferred by this Act to liquidate so far as practicable before the appointed day, all current debts and liabilities incurred by such authority.

Saving for existing bye-laws.

LXXXVII.—All such byelaws, orders, and regulations of any authority, whose powers and duties are transferred by this Act to any council, as are in force at the time of the transfer, shall, so far as they relate to or are in pursuance of the powers and duties transferred, continue in force as if made by that council, and may be revoked or altered accordingly.

Saving for pending contracts, &c.

LXXXVIII.—(1) If at the time when any powers, duties, liabilities, debts, or property are by this Act transferred to a council or parish meeting, any action or proceeding, or any cause of action or proceeding is pending or existing by or against any authority in relation thereto the same shall not be in anywise prejudicially affected by the passing of this Act, but may be continued, prosecuted, and enforced by or against the council or parish meeting as successors of the said authority in like manner as if this Act had not been passed.

(2) All contracts, deeds, bonds, agreements, and other instruments subsisting at the time of the transfer in this section mentioned, and affecting any of such powers, duties, liabilities, debts, or property, shall be of as full force and effect against or in favour of the council or parish meeting, and may be enforced as fully and effectually as if, instead of the authority, the council or parish meeting had been a party thereto. Sect. 88.

LXXXIX. The Acts specified in the second schedule to this Act are hereby repealed as from the appointed day to the extent in the third column of that schedule mentioned, and so much of any Act, whether public general or local and personal, as is inconsistent with this Act is also hereby repealed. Provided that where any wards of an urban district have been created, or any number of members of an urban sanitary authority fixed, by or in pursuance of any local and personal Act, such wards and number of members shall continue and be alterable in like manner as if they had been fixed by an order of the county council under this or any other Act. Repeal.

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## SCHEDULES.

### FIRST SCHEDULE.

### RULES AS TO PARISH MEETINGS, PARISH COUNCILS, AND COMMITTEES.

### PART ONE.

*Rules applicable to Parish Meetings.* Section 2.

[These rules are made applicable to parish meetings by sect. 2 (7), *supra*.]

(1) The annual assembly of the parish meeting shall be held on some day between the first day of March and the first day of April, both inclusive, in each year.

[This rule is substituted for the original rule by the Local Government Act, 1897 (60 Vict. c. 1), s. 2.]

(2) Not less than seven clear days before any parish meeting, public notice thereof shall be given specifying the time and place of the intended meeting and the business to be transacted at the meeting, and signed by the chairman of the parish council or other conveners of the meeting.

(3) If the business relates to the establishment or dissolution of a parish council, or the grouping of a parish, or the adoption of any of the adoptive Acts, not less than fourteen days' notice shall be given.

(4) A parish meeting may discuss parish affairs and pass resolutions thereon.

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(5) Every question to be decided by a parish meeting shall, in the first instance, be decided by the majority of those present and voting on the question, and the chairman shall announce his decision as to the result, and that decision shall be final, unless a poll is demanded.

(6) A poll may be demanded at any time before the conclusion of a parish meeting.

(7) A poll may be demanded by any one parochial elector in the case of a resolution respecting any of the following matters, namely:—

(*a.*) Any application, representation, or complaint to a county council or district council;

(*b.*) The appointment of a chairman for the year or of a committee, or the delegation of any powers or duties to a committee, or the approval of the acts of a committee;

(*c.*) The appointment of an overseer, the appointment or revocation of the appointment or dismissal of an assistant overseer or a parish officer;

(*d.*) The appointment of trustees or beneficiaries of a charity;

(*e.*) The adoption of any of the adoptive Acts;

(*f.*) The formation or dissolution of a school board;

(*g.*) The consent or refusal of consent to any act, matter, or thing which cannot by law be done without that consent;

(*h.*) The incurring of any expense or liability;

(*i.*) The place and time for the assembly of the parish meeting;

(*k.*) Any other prescribed matter;

but, save as aforesaid, a poll shall not be taken unless either the chairman of the meeting assents, or the poll is demanded by parochial electors present at the meeting, not being less than five in number or one-third of those present, whichever number is least.

(8) In case of an equal division of votes at a parish meeting the chairman shall have a second or casting vote.

(9) Where a parish meeting is held for the election of parish councillors, opportunity shall be given at the meeting for putting questions to such of the candidates as are present, and receiving explanations from them, and any candidate shall be entitled to attend the meeting and speak thereat, but, unless he is a parochial elector, not to vote.

(10) If the chairman of the parish meeting is absent from or unwilling or unable to take the chair at any assembly of the parish meeting, the meeting may appoint a person to take the chair, and that person shall have, for the purpose of that meeting, the powers and authority of the chairman.

(11) Any notice required to be given to or served on a parish meeting may be given to or served on the chairman of the parish meeting.

## PART TWO.

*Rules applicable to Parish Councils.* Section 3.

[These rules are made applicable to parish councils by sect. 3 (10), *supra*.]

(1) Every parish councillor shall, at the first meeting after his election, or if the council at the first meeting so permit, then at a later meeting fixed by the council, sign, in the presence of some member of the council, a declaration that he accepts the office, and if he does not sign such a declaration his office shall be void.

(2) If any casual vacancy arises in the council, the council shall forthwith be convened for filling the vacancy.

(3) The first business at the annual meeting shall be to elect a chairman and to appoint the overseers.

[For the appointment of overseers by the parish council and notification of the appointment, see sect. 5 (1) and sect. 50, *supra*.]

(4) The chairman may at any time convene a meeting of the parish council. If the chairman refuses to convene a meeting of the council after a requisition for that purpose signed by two members of the council has been presented to him, any two members of the council may forthwith, on that refusal, convene a meeting. If the chairman (without so refusing) does not within seven days after such presentation, convene a meeting, any two members of the council may, on the expiration of those seven days, convene a meeting.

(5) Three clear days at least before any meeting of a parish council notice thereof, specifying the time and place of the intended meeting and the business to be transacted at the meeting, and signed by or on behalf of the chairman of the parish council or persons convening the meeting, shall be given to every member of the parish council, and in case of the annual meeting notice specifying the like particulars shall be given to every member of the parish council immediately after his election.

(6) Any notice required by law to be given to the chairman or any other member of the parish council may be left at or sent by post to the usual place of abode of such chairman or member.

(7) No business shall be transacted at any meeting of a parish council unless at least one-third of the full number of members are present thereat, subject to this qualification, that in no case shall the quorum be less than three.

(8) The names of the members present at any meeting of the parish council, as well as of those voting on each question on

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which a division is taken, shall be recorded, so as to show whether each vote given was for or against the question.

(9) Every question at a meeting of a parish council shall be decided by a majority of votes of the members present and voting on that question.

(10) In case of an equal division of votes the chairman of the meeting shall have a second or casting vote.

(11) The parish council may, if they think fit, appoint one of their number to be vice-chairman, and the vice-chairman shall, in the absence or during the inability of the chairman, have the powers and authority of the chairman.

(12) The proceedings of a parish council shall not be invalidated by any vacancy among their members, or by any defect in the election or qualification of any members thereof.

(13) A parish council shall hold not less than four meetings in each year, of which one shall be the annual meeting, and every such meeting shall be open to the public unless the council otherwise direct.

(14) Every cheque or other order for payment of money by a parish council shall be signed by two members of the council.

(15) Any notice required to be given to or served on a parish council may be given to or served on the clerk to the parish council.

(16) The parish council may appear before any court or in any legal proceeding by their clerk or by any officer or member authorized generally or in respect of any special proceeding by resolution of the council, and their clerk or any member or officer shall, if so authorized, be at liberty to institute and carry on any proceeding which the parish council are authorized to institute and carry on.

## PART THREE.

Sections 2, 3.

### *General.*

(1) Minutes of the proceedings of every parish council and parish meeting shall be kept in a book provided for that purpose.

(2) A minute of proceedings at a meeting of a parish council, or of a committee of a parish or district council, or at a parish meeting, signed at the same or the next ensuing meeting by a person describing himself as or appearing to be chairman of the meeting at which the minute is signed, shall be received in evidence without further proof.

(3) Until the contrary is proved, every meeting in respect of the proceedings whereof a minute has been so made shall be deemed to have been duly convened and held, and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are proceedings of a committee, the committee shall be deemed to have been duly

constituted, and to have had power to deal with the matters referred to in the minutes.

(4) Any instrument purporting to be executed under the hands or under the hands and seals of the chairman and of two other members of a parish council or of a parish meeting shall, until the contrary is proved, be deemed to have been duly so executed.

(5) Subject to the provisions of this Act, a parish council may make, vary, and revoke standing orders for the regulation of their proceedings and business, and of the proceedings and business at parish meetings for a rural parish having a parish council.

(6) Where there is no council for a rural parish, the parish meeting may, subject to the provisions of this Act, regulate their own proceedings and business.

## PART FOUR.

*Proceedings of Committees of Parish or District Councils.* Section 56.

[Part IV. of this schedule is made applicable to joint burial committees by the Local Government (Joint Committees) Act, 1897 (60 & 61 Vict. c. 40), s. 1 (1) (*c*).]

(1) The quorum, proceedings, and place of meeting of a committee, whether within or without the parish or district, and the area (if any) within which the committee are to exercise their authority, shall be such as may be determined by regulations of the council or councils appointing the committee.

(2) Subject to such regulations, the quorum, proceedings, and place of meeting, whether within or without the parish or district, shall be such as the committee direct, and the chairman at any meeting of the committee shall have a second or casting vote.

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## SECOND SCHEDULE.

*Enactments Repealed.* Section 89.

| Session and Chapter. | Short Title. | Extent of Repeal. |
|---|---|---|
| 54 Geo. 3, c. 91 . | An Act to amend so much of an Act passed in the forty-third year of Her late Majesty Queen Elizabeth, as concerns the time for appointing overseers of the poor. | The whole Act, so far as it relates to rural parishes. |

Schedule 2.

SECOND SCHEDULE (*continued*).

| Session and Chapter. | Short Title. | Extent of Repeal. |
|---|---|---|
| 58 Geo. 3, c. 69 . | The Vestries Act, 1818. | Sections one, two, three, and four, so far as they relate to parish meetings and parish councils under this Act. |
| 59 Geo. 3, c. 85 . | The Vestries Act, 1819. | The whole Act, so far as it relates to parish meetings under this Act. |
| 1 & 2 Will. 4, c. 60. | The Vestries Act, 1831. | The whole Act, so far as it relates to parish meetings under this Act, except section thirty-nine. |
| 4 & 5 Will. 4, c. 76. | The Poor Law Amendment Act, 1834. | In section thirty-eight, the words "and the said guardians shall be elected by the ratepayers and by such owners of property in the parishes forming such union as shall in manner herein-after mentioned require to have their names entered as entitled to vote as owners in the books of such parishes respectively"; and from "and also fix a qualification" to "for the ensuing year shall be chosen"; and from "and every justice of the peace" to "as such elected guardians"; and from "Provided also" to the end of the section.<br>Section thirty-nine, from "and every justice" to the end of the section.<br>In section forty, the words "In all cases of the election of guardians under this Act or."<br>Section forty-one.<br>Section forty-eight from "Provided always" to the end of the section, so far as the words repealed relate to the office of parish or district councillor or guardian. |
| 5 & 6 Will. 4, c. 50. | The Highway Act, 1835. | In section forty-eight, the words "with the consent in writing of the justices of the peace at a special sessions for the highways" and the words "at and for such price as the said justices may deem fair and reasonable." |

SECOND SCHEDULE (*continued*). Schedule 2.

| Session and Chapter. | Short Title. | Extent of Repeal. |
|---|---|---|
| 7 Will. 4 & 1 Vict. c. 45. | The Parish Notices Act, 1837. | Section three, so far as it relates to notices by parish councils and notices of parish meetings under this Act. |
| 5 & 6 Vict. c. 57 . | The Poor Law Amendment Act, 1842. | Section eight, section eleven, from "and in every case," to the end of the section, and section fifteen. |
| 7 & 8 Vict. c. 101 . | The Poor Law Amendment Act, 1844. | Sections seventeen, twenty, and twenty-four, and section sixty-one from "and wherever any such collector" to "provisions of this Act." |
| 13 & 14 Vict. c. 57 | The Vestries Act, 1850. | Sections six, seven, eight, and nine, so far as they relate to parish meetings under this Act. |
| 14 & 15 Vict. c. 105. | The Poor Law Amendment Act, 1851. | Section two and section three. |
| 16 & 17 Vict. c. 65. | The Vestries Act, 1853. | The whole Act, so far as it relates to parish meetings under this Act. |
| 18 & 19 Vict. c. 120. | The Metropolis Management Act, 1855. | Section six.<br>Sections thirteen to twenty-seven.<br>In section thirty the words "or custom."<br>Section fifty-four.<br>In section two hundred and thirty-five the words "under this Act," where they secondly occur. |
| 19 & 20 Vict. c. 112. | The Metropolis Management Amendment Act, 1856. | Sections six, seven, and eight. |
| 23 & 24 Vict. c. 30. | The Public Improvements Act, 1860. | In section four the words "in value." |
| 25 & 26 Vict. c. 102. | The Metropolis Management Amendment Act, 1862. | Section thirty-six; and section forty from "by rating" to "of such parish." |

Schedule 2.

SECOND SCHEDULE (*continued*).

| Session and Chapter. | Short Title. | Extent of Repeal. |
|---|---|---|
| 25 & 26 Vict. c. 103. | The Union Assessment Act, 1862. | In section two, the words "consisting partly of *ex-officio* and partly of elected guardians," and from "Provided always" to the end of the section.<br>In section five, the words "*ex-officio* or elected," in both places where they occur, and the words, "as the case may be." |
| 30 & 31 Vict. c. 6 . | The Metropolitan Poor Act, 1867. | Section seventy-nine. |
| 30 & 31 Vict. c. 106. | The Poor Law Amendment Act, 1867. | Sections four, five, six, and nine, section ten so far a it relates to elections of guardians, and section twelve. |
| 31 & 32 Vict. c. 122. | The Poor Law Amendment Act, 1868. | Section four, from "and the powers" to the end of the section. |
| 38 & 39 Vict. c. 55. | The Public Health Act, 1875. | Section eight from "and the number" to the end of the section. In section nine, from "Provided that (1) An *ex-officio* guardian" to "situated in an urban district" (being the provisoes); and the words "from owners or occupiers of property situated in the rural district of a value sufficient to qualify them as elective guardians for a union," and from "Subject to the provisions of this Act" to the end of the section.<br>Section two hundred, except so far as it applies to boroughs; sections two hundred and one and two hundred and four, section two hundred and forty-eight, except so far as it relates to overseers, and section three hundred and twelve.<br>So much of Schedule I. as relates to committees, and Schedule II. |

SECOND SCHEDULE (*continued*). Schedule 2.

| Session and Chapter. | Short Title. | Extent of Repeal. |
|---|---|---|
| 39 & 40 Vict. c. 61. | The Divided Parishes and Poor Law Amendment Act, 1876. | Section six, from "The meeting of inhabitants" to the end of the section, so far as it relates to rural parishes. Section eight to "no alteration," except as to cases where a parish is dealt with by order of the Local Government Board. |
| 39 & 40 Vict. c. 79. | The Elementary Education Act, 1876. | In section seven the words "so however that in the case of a committee appointed by guardians one-third at least shall consist of *ex-officio* guardians, if there are any and sufficient *ex-officio* guardians." |
| 47 & 48 Vict. c. 70. | The Municipal Elections (Corrupt and Illegal Practices) Act, 1884. | Section thirty-six, from "(*h.*) The Local Government Board" to "validity of any vote." |
| 48 & 49 Vict. c. 53. | The Public Health (Members and Officers) Act, 1885. | Sections three and four. |
| 55 & 56 Vict. c. 53. | The Public Libraries Act, 1892. | Sub-section three of section one.<br>The first schedule so far as it applies to rural parishes. |

## ARMY (ANNUAL) ACT, 1894.

57 & 58 VICT. CHAP. 3.

An Act to provide, during twelve months, for the Discipline and Regulation of the Army.

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V. In sub-section three of section ninety-one of the Army Act, for the word "section" where it secondly occurs shall be substituted the word "Act."

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# SUPREME COURT OF JUDICATURE (PROCEDURE) ACT, 1894.

57 & 58 VICT. CHAP. 16.

An Act to amend the Supreme Court of Judicature Acts.
[3rd July, 1894.]

[This Act is included here, in part, as it governs the procedure in cases stated by quarter sessions upon rating appeals and appeals from removal orders.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

I. * * * * *

(5) In all cases where there is a right of appeal to the High Court from any court or person, the appeal shall be heard and determined by a Divisional Court constituted as may be prescribed by rules of court; and the determination thereof by the Divisional Court shall be final, unless leave to appeal is given by that court or by the Court of Appeal.

(6) An application for leave to appeal may be made *ex parte* or otherwise, as may be prescribed by rules of court.

Appeals from quarter sessions.

II.—(1) Every case stated by a court of quarter sessions otherwise than under the Acts eleven and twelve Victoria, chapter seventy-eight, and twelve and thirteen Victoria, chapter forty-five, for the consideration of the High Court shall

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Sect. 2.

Note.

Justices in quarter sessions are empowered by the terms of their commissions of the peace to state a case for the High Court when any matter of difficulty arises (*Reg.* v. *Chantrell*, L. R. 10 Q. B. 587; 44 L. J. M. C. 94; 23 W. R. 707); but it is entirely within their discretion whether they will state a case, and if they refuse to do so, there is no means of compelling them (*Reg.* v. *Walsall*, 3 Q. B. D. at p. 473, *per* Cockburn, C.J.). Such a case is an appeal within the above section, and an appeal only lies from the decision of the High Court thereon to the Court of Appeal if leave be granted. Cases stated by consent under the Quarter Sessions Act, 1849 (12 & 13 Vict. c. 45), s. 11, are not appeals within the above section, and an appeal lies to the Court of Appeal from the decision of the High Court upon such cases without any leave (*Peterborough* v. *Wilsthorpe Overseers*, 12 Q. B. D. 1; 53 L. J. M. C. 33; 50 L. T. 189; 32 W. R. 548; *Holborn Union* v. *Chertsey Union*, 15 Q. B. D. 76; 54 L. J. M. C. 137; 53 L. T. 656; 33 W. R. 698; 50 J. P. 36).

The Crown Cases Act, 1848 (11 & 12 Vict. c. 78), gives power to a judge at a trial for a criminal offence to state a case for the opinion of judges.

be deemed to be an appeal, and shall be heard and determined accordingly. Sect. 2.

(2) On the hearing of any appeal from a court of quarter sessions the appellate court may draw any inference of fact which might have been drawn in the court of quarter sessions, and may give any judgment or make any order which ought to have been given or made by that court, or may remit the order, and in criminal matters the conviction with the order, and the case stated on it, with the opinion or direction of the appellate court, for re-hearing and determination by the court of quarter sessions, or may remit the case for re-statement.

(3) On the hearing of any such appeal the appellate court shall have full power to determine how and by whom the costs of the proceedings in the appellate court and in the court of quarter sessions are to be borne.

(4) The judgment on any such appeal, or, where an appeal to a court of quarter sessions has been directed to be entered for re-hearing, then that appeal shall, on motion by any party to the appeal, be entered at the sessions next or next but one after the delivery of the judgment, or the giving of the direction, and shall, unless the appellate court otherwise directs, have effect as if the judgment had been given, or, in case of an appeal directed to be re-heard, the appeal had been heard and determined, by the court of quarter sessions at the time of the decision in respect of which the appeal from quarter sessions was brought, and entry and respite of any appeal to quarter sessions in respect of which a case has been stated for the consideration of the High Court shall not be necessary.

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# OUTDOOR RELIEF FRIENDLY SOCIETIES ACT, 1894.

57 & 58 VICT. CHAP. 25.

An Act to empower Boards of Guardians to grant Relief to Members of Friendly Societies in Receipt of any Allowances for the same. [20th July, 1894.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Outdoor relief to members of friendly societies.

I. Notwithstanding any orders or regulations of the Poor Law Commissioners or the Local Government Board under and Sect. 1.

There is no statute or rule which in terms prohibits the granting of such relief as is sanctioned by this Act, but the Act was passed Note.

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4 & 5 Will. 4, c. 76.

by virtue of the Poor Law Amendment Act, 1834, or of any Act amending the said Act, it shall be lawful for any board of guardians, if they think fit, to grant relief out of the poor rates to any person otherwise entitled to such relief, notwithstanding that the said person shall, by reason of his membership of a friendly society, be in receipt of any sum, and that in estimating the amount of the relief that shall be granted to such person being a member of a friendly society as aforesaid, it shall be at the discretion of the board of guardians whether they will or will not take into consideration the amount which may be received by him from such friendly society.

Extent of Act.

(2) This Act shall not extend to Scotland or Ireland.

Short title.

(3) This Act may be cited as the Outdoor Relief Friendly Societies Act, 1894.

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# INDUSTRIAL SCHOOLS ACT AMENDMENT ACT, 1894.

57 & 58 VICT. CHAP. 33.

An Act to further amend the Industrial Schools Act, 1866.
[17th August, 1894.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Supervision of children after discharge from industrial schools.

I.—(1) Every child sent to an industrial school after the passing of this Act, shall, from the expiration of the period of his detention at such school, remain up to the age of eighteen under the supervision of the managers of the school.

(2) The managers may grant to any child under their supervision a licence in the manner provided by section twenty-seven of the Industrial Schools Act, 1866, and may revoke any such licence, and recall the child to the school; and any child so recalled may be detained in the school for a period not

29 & 30 Vict. c. 118.

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Note.

in consequence of the expressed opinion of the Local Government Board that boards of guardians were not justified by the strict law applicable in such cases in giving to any poor person further relief than such an amount as would, together with the sum received by such person from a benefit society, render the amount of his weekly income equal to what the guardians might hold to be necessary to relieve the destitution of a person similarly circumstanced but who has no other means of support.

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exceeding three months, and may at any time be again placed out on licence: Provided that—

(*a.*) A child shall not be so recalled unless the managers are of opinion that the recall is necessary for the protection of the child; and

(*b.*) The managers shall send to the Secretary of State an immediate notification of the recall of any child, and shall state the reasons for the recall; and

(*c.*) They shall again place the child out as soon as possible, and at latest within three months after the recall, and shall forthwith notify the Secretary of State that the child has been placed out.

(3) A licence granted to a child within three months before attaining the age of sixteen shall continue in force after the child attains that age, and may be revoked or renewed in the manner provided by section twenty-seven of the Industrial Schools Act, 1866.

Penalty for inducing child placed on licence to escape, &c.

II. Section thirty-four of the Industrial Schools Act, 1866, shall be read and construed as if after the three offences therein severally specified there were added the following offence; namely,—

FOURTH.—Knowingly assists or induces, directly or indirectly, a child placed on licence to escape from any person with whom the child is so placed on licence, or prevents the child from returning to any person aforesaid.

Provision as to children detained under existing orders.

III. Any child detained in an industrial school at the passing of this Act may consent in writing to come under the provisions of this Act, and thereupon the Secretary of State, if satisfied that the consent was given voluntarily, and with full knowledge of its effect, may order that the provisions of this Act shall apply to the child, and they shall apply accordingly.

Saving for children detained under attendance order.

IV. Nothing in this Act shall apply to any child committed to an industrial school under the Elementary Education Acts, 1870 to 1893.

Short title and construction.

V. This Act may be cited for all purposes as the Industrial Schools Acts Amendment Act, 1894, and shall be construed as one with the Industrial Schools Act, 1866, and that Act and this Act may be cited together as the Industrial Schools Acts, 1866 and 1894.

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Sect. 4. Note.

By the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), s. 12, children who do not attend a public elementary school after an attendance order has been made upon their parents may be sent to a certified industrial school; and by sect. 16 of that Act, they may be sent to a day industrial school.

# PREVENTION OF CRUELTY TO CHILDREN ACT, 1894.

57 & 58 VICT. CHAP. 41.

An Act to consolidate the Acts relating to the Prevention of Cruelty to, and Protection of, Children.

[17th August, 1894.]

[The enforcement of this Act lies to great extent in the hands of the guardians, inasmuch as, by sect. 21, they may pay out of the common fund the costs of any proceedings which they may direct to be taken under the Act.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

*Cruelty to Children.*

Punishment for cruelty to children.

I.—(1) If any person over the age of sixteen years who has the custody, charge, or care of any child under the age of sixteen years, wilfully assaults, ill-treats, neglects, abandons, or exposes such child, or causes or procures such child to be

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Note.

Sub-s. (1).

A man who earned over 1*l.* a week spent the greater part in drink, and gave his wife only three shillings a week for the support of herself and four children under the age of sixteen years, two of the children being his step-children, and two his own children. The wife was an industrious woman, but was unable to supply the children with sufficient food and clothing. The man was summoned under the above section, but the magistrate dismissed the information on the ground that inasmuch as the poor law provides means whereby the children might have been fed and clothed, the suffering of the children was not caused by the neglect of the father: *Held* that the decision of the magistrate was wrong, and that the statutory provisions for poor law relief in no way absolved the father from liability under this Act (*Cole* v. *Pendleton*, 60 J. P. 359).

As to what may constitute an "abandonment" of a child, see *Reg.* v. *White*, L. R. 1 C. C. R. 311; 40 L. J. M. C. 134; *Reg.* v. *Falkingham*, L. R. 1 C. C. R. 222, decided under the Offences Against the Person Act, 1861 (24 & 25 Vict. c. 100), s. 27.

A prisoner was charged with the manslaughter of his infant child, of which he had the custody. He belonged to a sect who objected on religious grounds to calling in medical aid, and to the use of medicine, and he had wilfully and deliberately abstained from providing medical aid and medicine which were necessary for the child, though he knew it to be dangerously ill, but in other respects he had done all he could in the best interests of the child. Medical aid would have prolonged, and probably saved, the child's life, and the prisoner had the means to procure medical aid. *Held* that there was evidence that the prisoner had wilfully neglected the child in a manner likely to cause injury to its health within the meaning of this section, and having thereby accelerated its death, he was rightly convicted of manslaughter. *Reg.* v. *Senior*

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assaulted, ill-treated, neglected, abandoned, or exposed in a manner likely to cause such child unnecessary suffering, or injury to its health (including injury to or loss of sight, or hearing, or limb, or organ of the body, and any mental derangement), that person shall be guilty of a misdemeanour; and

(*a.*) On convictment or indictment, shall be liable at the discretion of the court, to a fine not exceeding one hundred pounds, or alternatively, or in default of payment of such fine, or in addition thereto, to imprisonment, with or without hard labour, for any term not exceeding two years; and

(*b.*) On summary conviction shall be liable, at the discretion of the court, to a fine not exceeding twenty-five pounds, or alternatively, or in default of payment of such fine, or in addition thereto, to imprisonment, with or without hard labour for any term not exceeding six months.

(2) A person may be convicted of an offence under this section either on indictment or by a court of summary jurisdiction notwithstanding the death of the child in respect of whom the offence is committed.

(3) If it is proved that a person indicted under this section was interested in any sum of money accruable or payable in the event of the death of the child, and had knowledge that such sum of money was accruing or becoming payable, the court, in its discretion, may

(*a.*) Increase the amount of the fine under this section so that the fine does not exceed two hundred pounds; or

(*b.*) In lieu of awarding any other penalty under this section, sentence the person indicted to penal servitude for any term not exceeding five years.

(4) A person shall be deemed to be interested in a sum of money under this section if he has any share in or any benefit from the payment of that money, though he is not a person to whom it is legally payable.

(5) An offence under this section is in this Act referred to as an offence of cruelty.

*Restrictions on Employment of Children.*

Restriction on employment of children.

II. If any person—

(*a.*) Causes or procures any child, being a boy under the age

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[1899], 1 Q. B. 283; 68 L. J. Q. B. 175; 79 L. T. 562; 47 W. R. 367; 63 J. P. 8.

Sect. 1. — Note. Sub-s. (1).

The expression "neglect" in this section means the absence of such reasonable care as an ordinary parent would ordinarily use for the protection and care of his child—the failure to take such steps for the protection of infant life and health as the general experience of mankind shows to be proper, provided that the means of rendering such treatment be within the reasonable competence of the person on whom the duty to render it rests. Per Lord Russell of Killowen, C. J. *Ib.*

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of fourteen years, or being a girl under the age of sixteen years, or, having the custody, charge, or care of any such child, allows that child, to be in any street, premises, or place for the purpose of begging or receiving alms, or of inducing the giving of alms, whether under the pretence of singing, playing, performing, offering anything for sale, or otherwise; or

(*b.*) Causes or procures any child, being a boy under the age of fourteen years, or being a girl under the age of sixteen years, or having the custody, charge, or care of any such child, allows that child, to be in any street, or in any premises licensed for the sale of any intoxicating liquor, other than premises licensed according to law for public entertainments, for the purpose of singing, playing, or performing for profit, or offering anything for sale, between nine p.m. and six a.m.; or

(*c.*) Causes or procures any child under the age of eleven years, or, having the custody, charge, or care of any such child, allows that child, to be at any time in any street, or in any premises licensed for the sale of any intoxicating liquor, or in premises licensed according to law for public entertainments, or in any circus or other place of public amusement to which the public are admitted by payment, for the purpose of singing, playing, or performing for profit, or offering anything for sale; or

(*d.*) Causes or procures any child under the age of sixteen years, or, having the custody, charge, or care of any such child, allows that child to be in any place for the purpose of being trained as an acrobat, contortionist, or circus performer, or of being trained for any exhibition or performance which in its nature is dangerous,

that person shall, on summary conviction, be liable, at the discretion of the court, to a fine not exceeding twenty-five pounds, or alternatively, or in default of payment of such fine, or in addition thereto, to imprisonment, with or without hard labour, for any term not exceeding three months.

Provided that—

(i.) This section shall not apply in the case of any occasional sale or entertainment the net proceeds of which are wholly applied for the benefit of any school or to any charitable object, if such sale or entertainment is held elsewhere than in premises which are licensed for the sale of any intoxicating liquor but not licensed according to law for public entertainments, or if, in the case of a sale or entertainment held in any such premises as aforesaid, a special exemption from the provisions of this section has been granted in writing under the hands of two justices of the peace; and

(ii.) Any local authority may, if they think it necessary or

desirable so to do, from time to time by byelaw extend or restrict the hours mentioned in paragraph (*b*) of this section, either on every day or on any specified day or days of the week, and either as to the whole of their district or as to any specified area therein; and

(iii.) Paragraphs (*c*) and (*d*) of this section shall not apply in any case in respect of which a licence granted under this Act is in force, so far as that licence extends; and

(iv.) Paragraph (*d*) of this section shall not apply in the case of a person who is the parent or legal guardian of a child, and himself trains the child.

Licences for employment of children.

III.—(1) A petty sessional court, or in Scotland the school board, may, notwithstanding anything in this Act, grant a licence for such time and during such hours of the day, and subject to such restrictions and conditions as the court or board think fit, for any child exceeding seven years of age,—

(*a.*) To take part in any entertainment or series of entertainment, to take place in premises licensed according to law for public entertainments, or in any circus or other place of public amusement as aforesaid; or

(*b.*) To be trained as aforesaid; or

(*c.*) For both purposes;

if satisfied of the fitness of the child for the purpose, and if it is shown to their satisfaction that proper provision has been made to secure the health and kind treatment of the children taking part in the entertainment or series of entertainments or being trained as aforesaid, and the court or board may, upon sufficient cause, vary, add to, or rescind any such licence.

Any such licence shall be sufficient protection to all persons acting under or in accordance with the same.

(2) A Secretary of State may assign to any inspector appointed under section sixty-seven of the Factory and Workshop Act, 1878, specially and in addition to any other usual duties, the duty of seeing whether the restrictions and conditions of any licence under this section are duly complied with, and any such inspector shall have the same power to enter, inspect, and examine any place of public entertainment at which the employment of a child is for the time being licensed under this section as an inspector has to enter, inspect, and examine a factory or workshop under section sixty-eight of the same Act.

41 & 42 Vict. c. 16.

(3) Where any person applies for a licence under this section he shall, at least seven days before making the application, give notice thereof to the chief officer of police for the district in which the licence is to take effect, and that officer may appear or instruct some person to appear before the authority hearing the application, and show cause why the licence should not be granted, and the authority to whom the application is made shall not grant the same unless they are satisfied that notice has been properly so given.

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(4) Where a licence is granted under this section to any person, that person shall, not less than ten days after the granting of the licence, cause a copy thereof to be sent to the inspector of factories and workshops acting for the district in which the licence is to take effect, and if he fails to cause such copy to be sent, shall be liable on summary conviction to a fine not exceeding five pounds.

(5) Nothing in this or in the last preceding section shall affect the provisions of the Elementary Education Act, 1876, or the Education (Scotland) Act, 1878.

39 & 40 Vict. c. 79.
41 & 42 Vict. c. 78.

*Arrest of Offender and Provision for Safety of Children.*

Power to take offenders into custody.

IV.—(1) Any constable may take into custody, without warrant, any person—

(*a.*) Who within view of such constable commits an offence under this Act, or any of the offences mentioned in the schedule to this Act, where the name and residence of such person are unknown to such constable and cannot be ascertained by such constable; or

(*b.*) Who has committed or who he has reason to believe has committed any offence of cruelty within the meaning of this Act, or any of the offences mentioned in the schedule to this Act, if he has reasonable ground for believing that such person will abscond, or if the name and address of such person are unknown to and cannot be ascertained by the constable.

(2) Where a constable arrests any person without warrant in pursuance of this section, the inspector or constable in charge of the station to which such person is conveyed shall, unless in his belief the release of such person on bail would tend to defeat the ends of justice, or to cause injury or danger to the child against whom the offence is alleged to have been committed, release the person arrested on his entering into such a recognizance, with or without sureties, as may in his judgment be required to secure the attendance of such person upon the hearing of the charge.

Detention of child in place of safety.

V.—(1) A constable may take to a place of safety any child in respect of whom an offence under paragraph (*a*) of section two of this Act has been committed, or in respect of whom an offence of cruelty within the meaning of this Act, or any of the offences mentioned in the schedule to this Act has been, or there is reason to believe has been, committed.

(2) A child so taken to a place of safety, and also any child under the age of sixteen years who seeks refuge in a place of

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Note.
Sub-s. (5).

The provisions of the Elementary Education Act, 1876, referred to in this sub-section, appear to be those contained in sect. 5 of that Act, which attaches a penalty to the employment of a child under ten years of age, or who being of that age and under fourteen has not obtained a certificate of proficiency.

safety, may there be detained until it can be brought before a court of summary jurisdiction, and that court may make such order as is mentioned in the next following sub-section, or may cause the child to be dealt with as circumstances may admit and require until the charge made against any person in respect of any offence as aforesaid with regard to the child has been determined by the committal for trial, or conviction, or discharge of such person.

(3) Where it appears to a court of summary jurisdiction or any justice that an offence of cruelty within the meaning of this Act or any of the offences mentioned in the schedule to this Act has been committed in the case of any child that is brought before such court or justice, and that the health or safety of the child will be endangered unless an order is made under this sub-section, the court or justice may, without prejudice to any other power under this Act, make such order as circumstances require for the care and detention of the child until a reasonable time has elapsed for a charge to be made against some person for having committed the offence, and, if a charge is made against any person within that time, until the charge has been determined by the committal for trial or conviction or discharge of that person, and any such order may be carried out notwithstanding that any person claims the custody of the child.

(4) Boards of guardians, and, in Scotland, parochial boards, shall provide for the reception of children brought to a workhouse in pursuance of this Act, and where the place of safety to which a constable takes a child is a workhouse, the master shall receive the child into the workhouse if there is suitable accommodation therein for the same, and shall detain the child until the case is determined, and any expenses incurred in respect of the child shall be deemed to be expenses incurred in the relief of the poor.

Disposal of child by order of court.

VI.—(1) Where a person having the custody, charge, or care of a child under the age of sixteen years has been—

(*a.*) Convicted of committing in respect of such child an offence of cruelty within the meaning of this Act, or any of the offences mentioned in the schedule to this Act; or

(*b.*) Committed for trial for any such offence; or

(*c.*) Bound over to keep the peace towards such child,

by any court, that court either at the time when the person is so convicted, committed for trial, or bound over, and without requiring any new proceedings to be instituted for the purpose, or at any other time, and also any petty sessional court before which any person may bring the case, may, if satisfied on inquiry that it is expedient so to deal with the child, order that the child be taken out of the custody of the person so convicted, committed for trial, or bound over, and be committed to the custody of a relation of the child, or some other

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fit person named by the court (such relation or other person being willing to undertake such custody), until it attains the age of sixteen years, or for any shorter period, and may of its own motion or on the application of any person from time to time by order renew, vary, and revoke any such order; but no order shall be made under this section unless a parent of the child has been convicted of or committed for trial for the offence, or is under committal for trial for having been or has been proved to have been party or privy to the offence, or has been bound over to keep the peace towards such child.

(2) Every order under this section shall be in writing, and any such order may be made by the court in the absence of the child; and the consent of any person to undertake the custody of a child in pursuance of any such order shall be proved in such manner as the court may think sufficient to bind him.

(3) Where an order is made under this section in respect of a person who has been committed for trial, then if that person is acquitted of the charge, or if the charge is dismissed for want of prosecution, the order shall forthwith be void except with regard to anything that may have been lawfully done under it.

(4) A Secretary of State in England, and in Scotland the Secretary for Scotland, and in Ireland the Lord-Lieutenant of Ireland, may at any time in his discretion discharge a child from the custody of any person to whose custody it is committed in pursuance of this section, either absolutely or on such conditions as such Secretary of State, Secretary, or Lord-Lieutenant, approves, and may, if he thinks fit, make rules in relation to children so committed to the custody of any person, and to the duties of such persons with respect to such children.

(5) A Secretary of State, in any case where it appears to him to be for the benefit of a child who has been committed to the custody of any person in pursuance of this section, may empower such person to procure the emigration of the child, but, except with such authority, no person to whose custody a child is so committed shall procure its emigration.

Maintenance of child when committed to custody of any person under order of court.

VII.—(1) Any person to whose custody a child is committed under this Act shall, whilst the order is in force, have the like control over the child as if he were his parent, and shall be responsible for its maintenance, and the child shall continue in the custody of such person, notwithstanding that it is claimed by its parent.

(2) Any court having power so to commit a child shall have power to make the like orders on the parent of the child to

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Sect. 7.

Note. Sub-s. 2).

By the Industrial Schools Act, 1866 (29 & 30 Vict. c. 118), ss. 39, 40, parents, &c., if of sufficient ability, are liable to contribute a sum not exceeding 5s. a week to the maintenance of a child in an industrial school.

contribute to its maintenance during such period as aforesaid as if the child were detained under the Industrial Schools Acts, but the limit on the amount of the weekly sum which the parent of a child may be required, under this section, to contribute to its maintenance shall be one pound a week instead of the limit fixed by the Industrial Schools Acts.

(3) Any such order may be made on the complaint or application of the person to whose custody the child is for the time being committed, and either at the time when the order for the child's committal to custody is made, or subsequently, and the sums contributed by the parent shall be paid to such person as the court may name, and be applied for the maintenance of the child.

(4) If a person fails to pay any sum payable by him in pursuance of any such order, he may be dealt with in like manner as if the sum were due from him in pursuance of an order under the Bastardy Law Amendment Act, 1872, or in Scotland were a sum decerned for aliment, or in Ireland were a sum ordered to be paid by him under the Summary Jurisdiction (Ireland) Acts. 35 & 36 Vict. c. 65.

(5) Where an order under this Act to commit a child to the custody of some relation or other person is made in respect of a person who has been committed for trial for an offence, the court shall not have power to order the parent of the child to contribute to its maintenance prior to the trial of that person.

Religious persuasion of person to whom child committed.

VIII.—(1) In determining on the person to whose custody the child shall be committed under this Act, the court shall endeavour to ascertain the religious persuasion to which the child belongs, and shall, if possible, select a person of the same religious persuasion, or a person who gives such undertaking as seems to the court sufficient that the child shall be brought up in accordance with its own religious persuasion, and such religious persuasion shall be specified in the order.

(2) In any case where the child has been placed pursuant to any such order with a person who is not of the same religious persuasion as that to which the child belongs or who has not given such undertaking as aforesaid the court shall, on the application of any person in that behalf, and on its appearing that a fit person who is of the same religious persuasion or who will give such undertaking as aforesaid, is willing to undertake the custody, make an order to secure his being placed with a person who either is of the same religious persuasion or gives such undertaking as aforesaid.

(3) Where a child has been placed with a person who gives such undertaking as aforesaid, and the undertaking is not observed, the child shall be deemed to have been placed with a person not of the same religious persuasion as that to which the child belongs as if no such undertaking had been given.

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Interchange of powers under Industrial Schools Acts and this Act.

IX.—(1) Where any child under the age of sixteen years is brought before a petty sessional court under circumstances authorizing the court to deal with the child under the Industrial Schools Acts, the court, if it thinks fit, in lieu of ordering that the child be sent to an industrial school, may make an order under this Act for the committal of the child to the custody of a relation or person named by the court.

(2) Where a court orders a child to be sent to an industrial school, the order may, at the discretion of the court, be made to take effect either immediately or at any later time specified therein, regard being had to the age or health of the child; and if the order is not made to take effect immediately, or if at the time specified for the order to take effect the child is deemed unfit to be sent to an industrial school, the court may commit the child to the custody of a relation or person named by the court, as provided by this Act, until the time so specified or the time when the order actually takes effect.

Warrant to search for and remove a child.

X.—(1) If it appears to any stipendiary magistrate or to any two justices of the peace, on information made before him or them on oath by any person who, in the opinion of the magistrate or justices, is *bonâ fide* acting in the interests of a child under the age of sixteen years, that there is reasonable cause to suspect that such a child has been or is being assaulted, ill-treated, or neglected in any place within the jurisdiction of such magistrate or justices in a manner likely to cause the child unnecessary suffering or to be injurious to its health, or that any offence mentioned in the schedule to this Act has been or is being committed in respect of such a child, such magistrate or justices may issue a warrant authorizing any person named therein to search for such child, and if it is found to have been or to be assaulted, ill-treated, or neglected in manner aforesaid, or that any such offence as aforesaid has been or is being committed in respect of the child, to take it to and detain it in a place of safety, until it can be brought before a court of summary jurisdiction, or authorizing any person to remove the child with or without search to a place of safety and detain it there until it can be brought before a court of summary jurisdiction; and the court before whom the child is brought may cause it to be dealt with in the manner provided by section five of this Act:

Provided that—

(*a.*) The powers herein-before conferred on any two justices may be exercised by any one justice, if upon the information it appears to him to be a case of urgency; and

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Sect. 9.

Note.

A child may be ordered to be sent to an industrial school under the Industrial Schools Act, 1866 (29 & 30 Vict. c. 118); the Prevention of Crimes Act, 1871 (34 & 35 Vict. c. 112), s. 14; the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), s. 12; and the Industrial Schools Act Amendment Act, 1880 (43 & 44 Vict. c. 15).

(*b.*) In the case of Scotland the jurisdiction hereby conferred on a magistrate or two justices shall be exercised only by a sheriff or sheriff substitute.

(2) Any person issuing a warrant under this section may by the same warrant cause any person accused of any offence in respect of the child to be apprehended and brought before a justice, and proceedings to be taken for punishing such person according to law.

(3) Any person authorized by warrant under this section to search for any child, or to remove any child with or without search, may enter (if need be by force) any house, building, or other place specified in the warrant, and may remove the child therefrom.

(4) Every warrant issued under this section shall be addressed to and executed by some superintendent, inspector, or other superior officer of police, who shall be accompanied by the person making the information, if such person so desire, unless the persons by whom the warrant is issued otherwise direct, and may also, if the persons by whom the warrant is issued so direct, be accompanied by a registered medical practitioner.

(5) It shall not be necessary in any information or warrant under this section to name the child.

*Power as to Habitual Drunkards.*

Power as to habitual drunkards.

XI. Where it appears to the court by or before which any person is convicted of the offence of cruelty within the meaning of this Act, or of any of the offences mentioned in the schedule to this Act, that that person is a parent of the child in respect of whom the offence was committed, or is living with the parent of the child, and is an habitual drunkard within the meaning of the Inebriates Acts, 1879 and 1888, the court, in lieu of sentencing such person to imprisonment, may, if it thinks fit, make an order for his detention for any period named in the order not exceeding twelve months in a retreat under the said Acts, the licensee of which is willing to receive him, and the said order shall have the like effect, and copies thereof shall be sent to the local authority and Secretary of State in like manner as if it were an application duly made by such person and duly attested by two justices under the said Acts; and the court may order an officer of the court or constable to remove such person to the retreat, and on his reception the said Acts shall have effect as if he had been admitted in pursuance of an application so made and attested as aforesaid: Provided that—

42 & 43 Vict. c. 19.

51 & 52 Vict. c. 19.

(*a.*) An order for the detention of a person in a retreat shall not be made under this section unless that person, having had such notice as the court deems sufficient of the intention to allege habitual drunkenness, consents to the order being made; and,

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(*b.*) If the wife or husband of such person, being present at the hearing of the charge, objects to the order being made, the court shall, before making the order, take into consideration any representation made to it by the wife or husband; and

(*c.*) Before making the order the court shall, to such extent as it may deem reasonably sufficient, be satisfied that provision will be made for defraying the expenses of such person during detention in a retreat.

*Evidence and Procedure.*

Evidence of accused person.

XII. In any proceeding against any person for an offence under this Act or for any of the offences mentioned in the schedule to this Act, such person shall be competent but not compellable to give evidence, and the wife or husband of such person may be required to attend to give evidence as an ordinary witness in the case, and shall be competent but not compellable to give evidence.

Extension of power to take deposition of child.

XIII.—(1) Where a justice is satisfied by the evidence of a registered medical practitioner that the attendance before a court of any child, in respect of whom an offence of cruelty within the meaning of this Act or any of the offences mentioned in the schedule to this Act is alleged to have been committed, would involve serious danger to its life or health, the justice may take in writing the deposition of such child on oath, and shall thereupon subscribe the same and add thereto a statement of his reason for taking the same, and of the day when and place where the same was taken, and of the names of the persons (if any) present at the taking thereof.

(2) The justice taking any such deposition shall transmit the same with his statement—

(*a.*) If the deposition relates to an offence for which any accused person is already committed for trial, to the proper officer of the court for trial at which the accused person has been committed; and

(*b.*) In any other case to the clerk of the peace of the county or borough in which the deposition has been taken;

and the clerk of the peace to whom any such deposition is transmitted shall preserve, file, and record the same.

Admission of deposition of child in evidence.

XIV. Where on the trial of any person on indictment for any offence of cruelty within the meaning of this Act or any of

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Note.

The provisions of this section as to a defendant giving evidence on his own behalf are now limited by the provisions of sect. 1 of the Criminal Evidence Act. 1898 (61 & 62 Vict. c. 36), and a defendant who elects to give evidence cannot be asked in cross-examination whether he had previously been convicted of a similar offence (*Charnock* v. *Merchant* [1900], 1 Q. B. 474; 69 L. J. Q. B. 221; 82 L. T. 89; 48 W. R. 334; 64 J. P. 183).

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the offences mentioned in the schedule to this Act, the court is satisfied by the evidence of a registered medical practitioner that the attendance before the court of any child in respect of whom the offence is alleged to have been committed would involve serious danger to its life or health, any deposition of the child taken under the Indictable Offences Act, 1848, or the Indictable Offences (Ireland) Act, 1849, or the Petty Sessions (Ireland) Act, 1851, or this Act shall be admissible in evidence either for or against the accused person without further proof thereof—

11 & 12 Vict. c. 42.
12 & 13 Vict. c. 69.
14 & 15 Vict. c. 93.

(*a.*) If it purports to be signed by the justice by or before whom it purports to be taken; and

(*b.*) If it is proved that reasonable notice of the intention to take the deposition has been served upon the person against whom it is proposed to use the same as evidence, and that that person or his counsel or solicitor had, or might have had if he had chosen to be present, an opportunity of cross-examining the child making the deposition.

Evidence of child of tender years.

XV.—(1) Where, in any proceeding against any person for an offence under this Act or for any of the offences mentioned in the schedule to this Act, the child in respect of whom the offence is charged to have been committed, or any other child of tender years who is tendered as a witness, does not in the opinion of the court understand the nature of an oath, the evidence of such child may be received, though not given upon oath, if, in the opinion of the court, such child is possessed of sufficient intelligence to justify the reception of the evidence, and understands the duty of speaking the truth: and the evidence of such child, though not given on oath but otherwise taken and reduced into writing, in accordance with the provisions of section seventeen of the Indictable Offences Act, 1848, or of section fourteen of the Petty Sessions (Ireland) Act, 1851, or of section thirteen of this Act, shall be deemed to be a deposition within the meaning of those sections respectively:

11 & 12 Vict. c. 42.
14 & 15 Vict. c. 93.

Provided that—

(*a.*) A person shall not be liable to be convicted of the offence unless the testimony admitted by virtue of this section and given on behalf of the prosecution is corroborated by some other material evidence in support thereof implicating the accused; and

(*b.*) Any child whose evidence is received as aforesaid and who shall wilfully give false evidence shall be liable to be indicted and tried for such offence, and on conviction thereof may be adjudged such punishment as is provided for by section eleven of the Summary Jurisdiction Act, 1879, in the case of juvenile offenders, or in Ireland by section four of the Summary Jurisdiction over Children (Ireland) Act, 1884, in the case of children.

42 & 43 Vict. c. 49.
47 & 48 Vict. c. 19.

(2) This section shall not apply to Scotland.

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Power to proceed with case in absence of child.

XVI. Where in any proceedings with relation to an offence of cruelty within the meaning of this Act, or any of the offences mentioned in the schedule to this Act, the court is satisfied by the evidence of a registered medical practitioner that the attendance before the court of any child in respect of whom the offence is alleged to have been committed would involve serious danger to its life or health, and is further satisfied that the evidence of the child is not essential to the just hearing of the case, the case may be proceeded with and determined in the absence of the child.

Presumption of age of child.

XVII. Where a person is charged with an offence under this Act, or any of the offences mentioned in the schedule to this Act, in respect of a child who is alleged in the charge or indictment to be under any specified age, and the child appears to the court to be under that age, such child shall for the purposes of this Act be deemed to be under that age, unless the contrary is proved.

Mode of charging offences and limitation of time.

XVIII.—(1) Where a person is charged with committing an offence under this Act or any of the offences mentioned in the schedule to this Act in respect of two or more children, the same information or summons may charge the offence in respect of all or any of them, but the person charged shall not be liable to a separate penalty for each child unless upon separate informations.

(2) The same information or summons may also charge the offences of assault, ill-treatment, neglect, abandonment, or exposure, together or separately, but when those offences are charged together the person charged shall not be liable to a separate penalty for each.

(3) A person shall not be summarily convicted of an offence under this Act or of an offence mentioned in the schedule to this Act unless the offence was wholly or partly committed within six months before the information was laid ; but, subject as aforesaid, evidence may be taken of acts constituting, or contributing to constitute, the offence, and committed at any previous time.

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Note.

On the trial of an indictment under this Act for unlawfully and wilfully neglecting children under the age of sixteen, the children were not produced before the court, and the only evidence as to their ages was that of two persons who said that they had seen the children and stated what they believed were their respective ages, all of them being under sixteen, and that of the mistress of a school who stated that the elder children attended a public elementary school, and she believed they were within the statutory age limit: *Held* that there was evidence proper to be left to the jury that the children were under sixteen, and that the conviction should be affirmed (*Reg.* v. *Cox*, [1898] 1 Q. B. 179; 67 L. J. Q. B. 293; 77 L. T. 568; 46 W. R. 205; 18 Cox, C. C. 677).

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(4) Where an offence under this Act or any offence mentioned in the schedule to this Act charged against any person is a continuous offence, it shall not be necessary to specify in the information, summons, or indictment, the date of the acts constituting the offence.

Appeal from summary conviction to quarter sessions.

XIX. When, in pursuance of this Act, any person is convicted by a court of summary jurisdiction of an offence, and such person did not plead guilty or admit the truth of the information, or when in the case of any application under sections six, seven, or eight of this Act, other than an application to a judge or court of assize, any party thereto thinks himself aggrieved by any order or decision of the court, he may appeal against such a conviction, or order, or decision, in England and Ireland to a court of quarter sessions, and in Scotland to the High Court of Justiciary, in manner provided by the Summary Prosecutions Appeal (Scotland) Act, 1875, or any Act amending the same.

38 & 39 Vict. c. 62.

Expenses of prosecution.

XX.—(1) Where a misdemeanour under this Act is tried on indictment, the expenses of the prosecution shall be defrayed in like manner as in the case of a felony.

(2) This section shall not apply to Scotland.

Guardians may pay costs of proceedings.

XXI. A board of guardians, or in Scotland the parochial board of any parish or combination, may, out of the funds under their control, pay the reasonable costs and expenses of any proceedings which they have directed to be taken under this Act in regard to the assault, ill-treatment, neglect, abandonment, or exposure of any child, and, in the case of a union, shall charge such costs and expenses to the common fund.

*Supplemental.*

Provision as to byelaws.

XXII. Every byelaw under this Act shall be subject—

(*a.*) In England to section one hundred and eighty-four of the Public Health Act, 1875, as if every local authority in England under this Act were a local authority within the meaning of that section, but with the substitution of Secretary of State for the Local Government Board; and

38 & 39 Vict. c. 55.

(*b.*) In Scotland to so much of section sixty-two of the Public Health (Scotland) Act, 1867, as provides for the confirmation of rules and regulations and the proceedings preliminary to confirmation as if such rules and regulations included byelaws under this Act, and the local authority under this Act were a local authority within the meaning of that section, but with the substitution of the Secretary for Scotland for the Board of Supervision; and

30 & 31 Vict. c. 101.

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41 & 42 Vict. c. 52.

(c.) In Ireland to section two hundred and twenty-one of the Public Health (Ireland) Act, 1878, with the substitution of Lord-Lieutenant for the Local Government Board.

Provision as to parents and as to meaning of "custody, charge, or care."

XXIII.—(1) The provisions of this Act relating to the parent of a child shall apply to the step-parent of the child and to any person cohabiting with the parent of the child, and the expression "parent" when used in relation to a child includes guardian and every person who is by law liable to maintain the child.

(2) This Act shall apply in the case of a parent who being without means to maintain a child fails to provide for its maintenance under the Acts relating to the relief of the poor, in like manner as if the parent had otherwise neglected the child.

(3) For the purposes of this Act—

Any person who is the parent of a child shall be presumed to have the custody of the child; and

Any person to whose charge a child is committed by its parent shall be presumed to have charge of the child; and

Any other person having actual possession or control of a child shall be presumed to have the care of the child.

Right of parent, &c. to administer punishment.

XXIV. Nothing in this Act shall be construed to take away or affect the right of any parent, teacher, or other person having the lawful control or charge of a child to administer punishment to such child.

General definitions.

XXV. In this Act unless the context otherwise requires—

The expression "local authority" means, as regards any borough in England, the council of the borough; as regards the city of London, the common council; as regards the county of London, the county council; and as regards any other place in England, the district council, and until a district council is established the urban or rural sanitary authority:

The expression "chief officer of police" means—

In the city of London and the liberties thereof, the commissioner of city police;

In the metropolitan police district, the commissioner of police of the metropolis;

Elsewhere in England, the chief constable, or head constable or other officer, by whatever name called, having the chief local command of the police in the police district in reference to which such expression occurs:

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Note.

Sub-s. (2).

See *Cole* v. *Pendleton*, 60 J. P. 359, *ante*, p. 2230.

The expression "street" includes any highway or other public place, whether a thoroughfare or not:

The expression "place of safety" includes any place certified by the local authority under this Act for the purposes of this Act, and also includes any workhouse or police station, or any hospital surgery, or place of the like kind:

The expression "Industrial Schools Acts" means as regards England and Scotland the Industrial Schools Act, 1866, and the Acts amending the same. 29 & 30 Vict. c. 118.

XXVI. In the application of this Act to Scotland, unless the context otherwise requires— Application of Act to Scotland.

The Secretary for Scotland shall be substituted for a Secretary of State:

The expression "local authority" means as regards any burgh in Scotland, being either a royal burgh or a burgh returning or contributing to return a member to Parliament, the town council; as regards any police burgh in Scotland, the commissioner of police thereof, and as regards any county in Scotland exclusive of any such burgh, the county council:

The expression "chief officer of police" means the chief constable, or head constable, superintendent or inspector, or other officer, by whatever name called, having the chief local command of the police in the police district in reference to which such expression occurs:

The expression "court of summary jurisdiction," the expression "petty sessional court" and the expression "justice of the peace" mean the sheriff or sheriff substitute:

The expression "misdemeanour" means crime and offence

The expression "manslaughter" means culpable homicide

The expression "defendant" includes panel, respondent, or person charged:

The expression "enter into a recognizance with or without sureties" means grant a bond of caution:

The expression "workhouse" means poor house.

XXVII. In the application of this Act to Ireland, unless the context otherwise requires— Application of Act to Ireland.

The Chief Secretary shall be substituted for a Secretary of State:

The expression "local authority" means the sanitary authority within the meaning of the Public Health (Ireland) Act, 1878: 41 & 42 Vict. c. 52.

The expression "chief officer of police" means in the police district of Dublin metropolis the chief commissioner of

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the police for the said district; and in any other police district the county inspector of the Royal Irish Constabulary :

The expression "committed for trial" means committed to prison or admitted to bail in manner provided in the Summary Jurisdiction (Ireland) Acts :

The expression "petty sessional court" means a court of summary jurisdiction :

31 & 32 Vict. c. 25.

The expression "Industrial Schools Acts" means the Industrial Schools Act (Ireland) 1868, and any Act amending the same.

Short title and repeal.

XXVIII.—(1) This Act may be cited as the Prevention of Cruelty to Children Act, 1894.

52 & 53 Vict. c. 44. 57 & 58 Vict. c. 27.

(2) The Prevention of Cruelty to, and Protection of, Children Act, 1889, and the Prevention of Cruelty to Children (Amendment) Act, 1894, are hereby repealed.

(3) This Act shall come into operation on the twenty-first day of August one thousand eight hundred and ninety-four.

SCHEDULE.

24 & 25 Vict. c. 100.

Any offence under sections twenty-seven, fifty-five, or fifty-six of the Offences against the Person Act, 1861, and any offence against a child under the age of sixteen years under sections forty-three or fifty-two of that Act.

42 & 43 Vict. c. 34.

Any offence under the Children's Dangerous Performances Act, 1879.

Any other offence involving bodily injury to a child under the age of sixteen years.

# THE RAILWAY AND CANAL TRAFFIC ACT, 1894.

57 & 58 VICT. CHAP. 54.

An Act to amend the Railway and Canal Traffic Act, 1888.

[25th August, 1894.]

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Restrictions on power to award costs.

II. In proceedings before the Railway and Canal Commissioners, other than disputes between two or more companies,

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Note.

This section is printed here as bearing upon the power of the commissioners to award costs in deciding a difference between a railway or canal company and the rating authorities under sect. 9 of the Regulation of Railways Act, 1873 (36 & 37 Vict. c. 48).

the commissioners shall have power to award costs on either side, unless they are of opinion that either the claim or the defence has been frivolous and vexatious. Sect. 2.

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V. This Act may be cited as the Railway and Canal Traffic Act, 1894, and shall be read with the Railway and Traffic Acts, 1873 to 1888. Short title.

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# MERCHANT SHIPPING ACT, 1894.

57 & 58 VICT. CHAP. 60.

An Act to consolidate Enactments relating to Merchant Shipping. [25th August, 1894.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

* * * * *

*Apprenticeship to the Sea Service.*

CV. All superintendents shall give to persons desirous of apprenticing boys to or requiring apprentices for the sea service, such assistance as may be in their power, and may receive from those persons such fees as the Board of Trade fix, with the concurrence, so far as relates to pauper apprentices in England, of the Local Government Board, and so far as relates to pauper apprentices in Ireland, of the Local Government Board for Ireland. Assistance given by superintendents as to apprenticeship.

CVI. Subject to the special provisions of this Act, apprenticeships to the sea service made by a board of guardians or persons Apprenticeships of paupers in

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The binding of pauper apprentices was enjoined upon churchwardens and overseers by the Poor Relief Act, 1601 (43 Eliz. c. 2), s. 3; and the practice was regulated by frequent subsequent statutes, of which there remain unrepealed, and not entirely superseded, the Parish Apprentices Act, 1778 (18 Geo. 3, c. 47), limiting the age at which apprenticeship shall end at twenty-one years for males, and twenty-one years or marriage for females; the Parish Apprentices Act, 1792 (32 Geo. 3, c. 57), making provision for the apprentice in the case of the death or insolvency of his master, and regulating the treatment and assigning over of apprentices; the Parish Apprentices Act, 1802 (42 Geo. 3, c. 46), providing for a register of pauper apprentices to be kept; the Parish Apprentices Act, 1816 (56 Geo. 3, c. 139), ss. 8, 9, regulating the place of apprenticeship; the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76), s. 15, authorizing the Poor Law Commissioners (now Local Government Board) to

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Great Britain and Ireland.

having the authority of a board of guardians shall, if made in Great Britain, be made in the same manner and be subject to the same laws and regulations as other apprenticeships made by such boards or persons; and if made in Ireland, be subject to the following regulations:

(*a.*) The board of guardians or other persons in any poor law union may put out and bind as apprentice to the sea service any boy who, or whose parent, is receiving relief in the union, and who has attained the age of twelve years, and is of sufficient health and strength, and consents to be bound:

(*b.*) If the cost of relieving the boy is chargeable to an electoral division of a poor law union, then (except where paid officers act in place of guardians) he shall not be so bound unless the consent in writing of the guardians of that division, or of a majority of them, if more than one, is first obtained, and that consent shall, if possible, be indorsed on the indenture:

(*c.*) The expenses incurred in the binding and outfit of any such apprentice shall be charged to the poor law union or electoral division, as the case may be, to which the boy or his parent is chargeable at the time of his being apprenticed:

(*d.*) All indentures made in a poor law union may be sued on by the board of guardians of the union, or persons having the authority of such board, by their name of office; and actions so brought shall not abate by reason of any death or change in the persons holding office, but such an action shall not be commenced without the consent of the Local Government Board for Ireland:

(*e.*) The amount of the costs incurred in any such action, and not recovered from the defendant, may be charged as the expenses incurred in binding out the apprentice.

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Special provisions as to apprenticeship to the sea service.

CVIII.—(1) Every indenture of apprenticeship to the sea service shall be executed in duplicate and shall be exempt from stamp duty.

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Note.

make regulations for the apprenticing of pauper children; and the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 12, which transferred the power and duty of binding poor children as apprentices from the churchwardens and overseers to the guardians, and rendered the assent of justices to the indentures unnecessary. The regulations of Poor Law Commissioners on the subject are contained in the General Consolidated Order, July 24th, 1847, arts. 52—74; and in a General Order, February 15th, 1898, which enables the Local Government Board to allow a departure from their regulations whenever they think fit.

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(2) Every indenture of apprenticeship to the sea service, made in the United Kingdom, and every assignment or cancellation thereof, and, where the apprentice bound dies or deserts, the fact of the death or desertion, shall be recorded.

(3) For the purpose of the record—

(*a.*) A person to whom an apprentice to the sea service is bound shall within seven days of the execution of the indenture take or transmit to the Registrar-General of Shipping and Seamen, or to a superintendent, the indenture executed in duplicate, and the Registrar-General or superintendent shall keep and record the one indenture and indorse on the other the fact that it has been recorded and re-deliver it to the master of the apprentice:

(*b.*) The master shall notify any assignment or cancellation of the indenture, or the death or desertion of the apprentice, to the Registrar-General of Shipping and Seamen, or to a superintendent, within seven days of the occurrence, if it occurs within the United Kingdom; or, as soon as circumstances permit, if it occurs elsewhere.

(4) If any person fails to comply with any requirement of this section, he shall for each offence be liable to a fine not exceeding ten pounds.

Production of indentures to superintendent before voyage in foreign-going ship.

CIX.—(1) The master of a foreign-going ship shall, before carrying an apprentice to sea from a port in the United Kingdom, cause the apprentice to appear before the superintendent before whom the crew are engaged, and shall produce to the superintendent the indenture by which the apprentice is bound, and every assignment thereof.

(3) The name of the apprentice, with the date of the indenture and of the assignments thereof, if any, and the names of the ports at which the same have been registered, shall be entered on the agreement with the crew.

(3) If the master fails without reasonable cause to comply with any requirement of this section he shall for each offence be liable to a fine not exceeding five pounds.

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*Reimbursement of Relief to Seamen's Families.*

Relief to seamen's families to be chargeable on a certain proportion of their wages.

CLXXXII.—(1) Whenever, during the absence of any seaman on a voyage, his wife, or any of his children, or step-children, becomes chargeable to any union or parish in the United Kingdom, that union or parish shall be entitled to be reimbursed, out of the wages of the seaman earned during the voyage, any sums properly expended during his absence in the maintenance of those members of his family or any of them, so that the sums do not exceed the following proportions of his wages; (that is to say),

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(*a.*) If only one of those members is chargeable, one-half of the wages:

(*b.*) If two or more of those members are chargeable, two-thirds of the wages.

(2) If during the absence of the seaman any sums have been paid by the owner of his ship to or on behalf of any such member as aforesaid, under an allotment note made by the seaman in favour of the member, any claim for reimbursement as aforesaid shall be limited to the excess (if any) of the proportion of the wages herein-before mentioned over the sums so paid.

Notice to owner, and enforcement of charge.

CLXXXIII.—(1) For the purpose of obtaining such reimbursement as aforesaid, the board of guardians in a poor law union in England or Ireland, and the inspector of the poor in any parish in Scotland, may give to the owner of the ship in which the seaman is serving a notice in writing stating the proportion of the seaman's wages upon which it is intended to make a claim, and requiring the owner to retain such proportion in his hands for a period to be therein mentioned, not exceeding twenty-one days from the time of the seaman's return to his port of discharge, and also requiring the owner immediately on the seaman's return to give notice in writing thereof to the board or inspector.

(2) The owner, after receiving any such notice, shall retain the said proportion of wages, and give notice of the seaman's return accordingly, and shall likewise give to the seaman notice of the intended claim.

(3) The board or inspector may, upon the seaman's return, apply to a court of summary jurisdiction having jurisdiction in the union or parish for an order for reimbursement; and that court may make a summary order for the reimbursement to the whole extent claimed, or to such lesser amount as the court, under the circumstances, think fit; and the owner shall pay to the board or inspector out of the seaman's wages the amount so ordered to be paid by way of reimbursement, and shall pay the residue of the wages to the seaman.

(4) If no order for reimbursement is obtained within the period mentioned in the notice given to the owner as aforesaid, the proportion of wages to be retained by him shall immediately on the expiration of that period and without deduction be payable to the seaman.

*Destitute Seamen.*

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Relief of destitute lascars.

CLXXXV.—(1) It shall be the duty of the Secretary of State in Council of India to take charge of and send home or otherwise provide for all lascars or natives of India who are found destitute in the United Kingdom.

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(2) If any such destitute person is relieved and maintained by a board of guardians in a poor law union in England or Ireland, or by the inspector of the poor in any parish in Scotland, the board or inspector may give notice thereof in writing to the Secretary of State in Council of India specifying, so far as is practicable, the following particulars; namely—

(*a.*) The name of the person relieved or maintained; and

(*b.*) The part of India of which he professes to be a native; and

(*c.*) The name of the ship in which he was brought to the United Kingdom; and

(*d.*) The port abroad from which the ship sailed, and the port in the United Kingdom at which the ship arrived when he was so brought to the United Kingdom, and the time of the arrival:

(3) The Secretary of State in Council of India shall repay to the board of guardians or inspector out of the revenues of India all monies duly expended by them or him in relieving or maintaining the destitute person after the time at which the notice is given, and any money so paid or otherwise paid by the said Secretary of State, on account of the relief or maintenance or passage home of the destitute person, shall be a joint and several debt due to the said Secretary of State from the master and owner of the ship by which the destitute person was brought to the United Kingdom.

4 Geo. 4, c. 80, s. 34.
3 & 4 Will. 4, c. 93.

(4) This section shall apply only to such lascars or other natives of India as have been brought to the United Kingdom either as seamen, or for employment as seamen, or for employment by the owner of the ship bringing them.

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(II). PROVISIONS APPLYING TO ALL FISHING BOATS OF TWENTY-FIVE TONS TONNAGE AND UPWARDS.

The following sections shall apply to all fishing boats of twenty-five tons tonnage and upwards.

*Apprenticeship and Agreements with Boys.*

Restriction on apprenticeships and agreements in the case of young boys.

CCCXCII. A boy under the age of thirteen years shall not enter into any apprenticeship to the sea-fishing service or agreement with respect to that service, and an indenture of apprenticeship or agreement made contrary to this section shall be void.

Boys to be properly apprenticed or have proper agreements.

CCCXCIII.—(1) A boy under the age of sixteen years shall not be taken to sea for the purpose of serving in any capacity connected with the sea-fishing service, unless he is bound by an indenture of apprenticeship or agreement made in conformity with this part of this Act, and a boy bound by any such agreement is in this Act referred to as a sea-fishing boy.

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(2) If any person takes a boy to sea, or causes a boy to be taken to sea, in contravention of this section, that person shall be liable to a fine not exceeding twenty pounds.

(3) Boards of guardians in apprenticing boys to the sea-fishing service, shall not cause or permit any such apprenticeship to be made except in conformity with this part of this Act.

(4) Nothing in this part of this Act shall prevent the daily employment in a fishing boat of any boy under the age of sixteen years, who is under no obligation to remain in that employment for a longer period than one day, and with whom no written agreement has been made.

Assistance by superintendents.

CCCXCIV. All superintendents shall give to persons desirous of making indentures of apprenticeship to the sea-fishing service or agreements under this part of this Act, or of causing the same to be made, such assistance as may be in their power in reference thereto, and shall supply forms of indentures or agreements at such reasonable rates (if any) as the Board of Trade may fix, and may receive such fees in respect of those indentures or agreements as the Board of Trade may fix.

Apprenticeships and agreements with boys to be made before superintendent.

CCCXCV.—(1) Indentures of apprenticeship to the sea-fishing service, and agreements with boys under the age of sixteen years with respect to that service, shall be made before a superintendent and be in accordance with this Act, and every such indenture or agreement not so made shall be void.

(2) A superintendent, before allowing any such indenture or agreement to be completed, shall satisfy himself—

(*a.*) That the indenture or agreement complies with all the requirements of this part of this Act; and

(*b.*) That the master with whom the indenture or agreement is made is a fit person for the purpose; and

(*c.*) That the apprentice or boy is not under the age of thirteen years, and is of sufficient health and strength; and

(*d.*) That the nearest relations of the apprentice or boy or his guardians assent, in the case of an apprentice, to the apprenticeship, and to the stipulations in the indenture of apprenticeship, and in the case of a boy, to the stipulations of the agreement;

and shall make and sign an indorsement that he is so satisfied on the indenture or agreement.

(3) Where there are no nearest relations or guardians, or where they cannot readily be found, or are not known, the superintendent shall act as guardian for the occasion, and state in his indorsement that he has so acted.

(4) The superintendent's indorsement shall be admissible in evidence in manner provided by this Act.

(5) The indentures of apprenticeship and agreements shall be in such form, and contain such covenants, provisions, stipulations, indorsements and certificates as are prescribed by Order in Council made on the recommendation of the Board of Trade, and any directions given in the forms so prescribed shall be complied with.

(6) The indentures and agreements shall be executed in triplicate, one of which shall be kept by the master, one by the boy, and one by the superintendent before whom it is made.

(7) All such indentures and agreements made in conformity with this part of this Act, shall be exempt from stamp duty.

Enforcement by superintendents of indentures or agreements.

CCCXCVI.—(1) Where an indenture of apprenticeship to the sea-fishing service, or any agreement with a sea-fishing boy, has been made before a superintendent at a port, the superintendent for the time being at that port may, by proper legal proceeding taken in his own name, enforce on behalf of the apprentice or boy against the master any stipulations in that indenture or agreement.

(2) Where an apprentice or boy is taken to sea from any port under an indenture or agreement which is void, the superintendent at that port, or if there is none the superintendent at the nearest port, may, by proper legal proceedings taken in his own name enforce, to such extent as he thinks just, on behalf of the apprentice or boy against the master any stipulation in the void indenture or agreement which is in favour of the apprentice or boy.

(3) Any sums recovered by a superintendent under this section may, so far as necessary, be applied by him in payment of the costs of recovering the same.

Powers of superintendent under indenture or agreement.

CCCXCVII. Where an indenture of apprenticeship to the sea-fishing service, or an agreement with a sea-fishing boy, is made before a superintendent at any port, the superintendent for the time being at that port shall have, and when necessary shall execute, all the powers given to the superintendent by the indenture or agreement.

Prohibition on taking money for apprenticeships and boys' agreements.

CCCXCVIII. If any person—

(*a.*) Receives any money or valuable consideration from the person to whom an apprentice in the sea-fishing service is bound, or to whom a sea-fishing boy is bound by any agreement, or from anyone on that person's behalf, or from the apprentice or boy or anyone on the apprentice or boy's behalf, in consideration of the apprentice or boy being so bound; or

(*b.*) Makes or causes any such payment to be made;

that person shall in respect of each offence be guilty of a misdemeanour, whether the apprentice or boy was or was not validly bound.

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Sect. 731.

*Exemption from Rates and Harbour Dues.*

Exemption from rates.

DCCXXXI.—All lighthouses, buoys, beacons, and all light dues, and other rates, fees, or payments accruing to or forming part of the mercantile marine fund, and all premises or property belonging to or occupied by any of the general lighthouse authorities or by the Board of Trade, which are used or applied for the purposes of any of the services for which those dues, rates, fees, and payments are received, and all instruments or writings used by or under the directions of any of the general lighthouse authorities or of the Board of Trade in carrying on those services, shall be exempted from all public, parochial, and local taxes, duties, and rates of every kind.

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# REFORMATORY AND INDUSTRIAL SCHOOLS (CHANNEL ISLANDS CHILDREN) ACT, 1895.

58 & 59 VICT. CHAP. 17.

An Act for enabling Children to be sent from the Channel Islands to Reformatory or Industrial Schools in Great Britain. [20th June, 1895.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Power for Government at Channel Islands to contract with reformatory or industrial schools in Great Britain for reception of Channel Islands children.

I. Where, under any law of any of the Channel Islands, it is lawful for any court in the Channel Islands to sentence a young person to be sent to a reformatory or industrial school in Great Britain, and provision is made under any such law to the satisfaction of a Secretary of State—

(1) For the expenses of the conveyance of the young person to the school to which he is sent, and for his re-conveyance to the Channel Islands on his discharge from the school; and

(2) For the expenses of his maintenance at the school; and

(3) For the contribution (if any) to be made by his parent, step-parent, guardian, or other person liable to maintain him, and the mode in which that contribution is to be raised;

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Sect. 731. Note.

The exemption from rateability conferred by this section does not extend to lighthouses under the control of local authorities (*Rex* v. *Coke*, 5 B. & C. 797; *Rex* v. *Teignmouth*, 12 East, 46; *Rex* v. *Fowke*, 5 B. & C. 814).

Sect. 1.

the government of any of the Channel Islands may contract with the managers of any reformatory or industrial school in Great Britain for the reception of young persons sentenced to be sent to any school by a court in the Channel Islands.

Channel Islands children may be sent to reformatory or industrial schools in Great Britain.

II. A young person sentenced as aforesaid in the Channel Islands to be sent to a reformatory or industrial school in Great Britain may be conveyed in the custody of any constable or other person acting under a warrant issued by any competent court in the Channel Islands to the school to which he is sentenced to be sent, and he shall, during his conveyance to that school, be deemed to be in legal custody, both on sea and on land, and when delivered up to the managers of the school to which he is sent, he may thenceforth be dealt with in the same manner, and be subject to the Acts relating to reformatory and industrial schools, in the same way as if he had been sent to the schools by justices, a magistrate, or a court in the United Kingdom.

Construction.

III. In the construction of this Act for the purpose of the Acts relating to reformatory schools and industrial schools—

The expression "young person" shall include "youthful offender" and "child:"

The expressions "sentence" and "sentenced" shall include "order" and "ordered."

Short title

IV. This Act may be cited as the Reformatory and Industrial Schools (Channel Islands Children) Act, 1895.

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# CORRUPT AND ILLEGAL PRACTICES PREVENTION ACT, 1895.

58 & 59 VICT. CHAP. 40.

An Act to amend the Corrupt and Illegal Practices Prevention Act, 1883. [6th July, 1895.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal,

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Sect. 2. Note.

Young persons may be sent to reformatory schools in England under the Reformatory Schools Act, 1866 (29 & 30 Vict. c. 117), s. 14, and the Reformatory Schools Act, 1893 (56 & 57 Vict. c. 48); and to industrial schools in England under the Industrial Schools Act, 1866 (29 & 30 Vict. c. 118), ss. 14—17, 19; the Prevention of Crimes Act, 1871 (34 & 35 Vict. c. 112), s. 14; the Elementary Education Act, 1876 (39 & 40 Vict. c. 79), ss. 12, 13, 16; the Industrial Schools Acts Amendment Act, 1880 (43 & 44 Vict. c. 15); and the Youthful Offenders' Act, 1901 (1 Ed. VII. c. 20), s. 5.

Sect. 1.

and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Certain false statements concerning a candidate to be an illegal practice.

I. Any person who, or the directors of any body or association corporate which, before or during any Parliamentary election, shall, for the purpose of affecting the return of any candidate at such election, make or publish any false statement of fact in relation to the personal character or conduct of such candidate shall be guilty of an illegal practice within the meaning of the provisions of the Corrupt and Illegal Practices Prevention Act, 1883, and shall be subject to all the penalties for and consequences of committing an illegal practice in the said Act mentioned, and the said Act shall be taken to be amended as if the illegal practice defined by this Act had been contained therein.

46 & 47 Vict. c. 51.

Evidence on hearing of charge under the Act.

II. No person shall be deemed to be guilty of such illegal practice if he can show that he had reasonable grounds for believing, and did believe, the statement made by him to be true.

Any person charged with an offence under this Act, and the husband or wife of such person, as the case may be, shall be competent to give evidence in answer to such charge.

Injunction against person making false statement.

III. Any person who shall make or publish any false statement of fact as aforesaid may be restrained by interim or perpetual injunction by the High Court of Justice from any repetition of such false statement or any false statement of a similar character in relation to such candidate, and for the purpose of granting an interim injunction *primâ facie* proof of the falsity of the statement shall be sufficient.

Candidate exonerated in certain cases of illegal practice by agents.

IV. A candidate shall not be liable, nor shall be subject to any incapacity, nor shall his election be avoided, for any illegal practice under this Act committed by his agent other than his election agent, unless it can be shown that the candidate or his election agent has authorized or consented to the committing of such illegal practice by such other agent, or has paid for the circulation of the false statement constituting the illegal practice, or unless upon the hearing of an election petition the election court shall find and report that the election of such candidate was procured or materially assisted in consequence of the making or publishing of such false statements.

Short title.

V. This Act may be cited as the Corrupt and Illegal Practices Prevention Act, 1895, and shall be construed as one with the Corrupt and Illegal Practices Prevention Act, 1883, and that Act and this Act may be cited together as the Corrupt and Illegal Practices Prevention Acts, 1883 and 1895.

Sect. 1. Note.

For the disqualifications consequent upon a conviction for illegal practices, see the Corrupt and Illegal Practices Prevention Act, 1883 (46 & 47 Vict. c. 51), s. 10.

# LOCAL GOVERNMENT (ELECTIONS) ACT, 1896.

59 & 60 VICT. CHAP. 1.

An Act to continue temporarily certain Powers for the Removal of Difficulties at Elections under the Local Government Act, 1894. [6th March, 1896.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Power of county council to remove difficulties.

I.—(1) If any difficulty arises with respect to any election of parish or district councillors or of guardians, or to the first meeting after any ordinary election of such councillors or guardians, or if, from an election not being held, or being defective, or otherwise, the council or board has not been properly constituted, the county council may by order make any appointment or do anything which appears to them necessary or expedient for the proper holding of any such election or meeting, and properly constituting the council or board, and may, if it appears to them necessary, direct the holding of an election or meeting, and fix the dates for any such election or meeting.

56 & 57 Vict. c. 73.

(2) Any such order may modify the provisions of the Local Government Act, 1894, and the enactments applied by, or rules framed under, that Act, so far as may appear to the county council necessary or expedient for carrying the order into effect.

(3) A county council may delegate their powers under this section to a committee.

Duration.

II. This Act shall continue in force until the thirty-first day of December one thousand eight hundred and ninety-seven, and no longer, unless continued by Parliament.

Short title.

III. This Act may be cited as the Local Government (Elections) Act, 1896.

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# AGRICULTURAL RATES ACT, 1896.

59 & 60 VICT. CHAP. 16.

An Act to amend the Law with respect to the Rating of Occupiers of Agricultural Land in England, and for other purposes connected therewith. [20th July, 1896.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal,

Sect. 2.

Note. This Act has been kept in force until the present time by annual Expiring Laws Continuance Acts.

and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Exemption of agricultural land from half of rates to which this Act applies.

I.—(1) During the continuance of this Act, *that is to say, the period of five years after the thirty-first day of March next after the passing of this Act,* the occupier of agricultural land in England shall be liable, in the case of every rate to which this Act applies, to pay one-half only of the rate in the pound payable in respect of buildings and other hereditaments.

(2) This Act shall apply to every rate as defined by this Act, except a rate—

(*a.*) Which the occupier of agricultural land is liable, as compared with the occupier of buildings or other hereditaments, to be assessed to or to pay in the proportion of one-half or less than one-half, or

(*b.*) Which is assessed under any commission of sewers or in respect of any drainage, wall, embankment, or other work for the benefit of the land.

Payment out of local taxation account in respect of deficiency arising from exemption.

II.—(1) In respect of the deficiency which will arise from the provisions of this Act in the produce of rates made by the spending authorities in England, as herein-after defined, there shall during the continuance of this Act—

(*a.*) Be paid to the local taxation account an annual sum (in this Act referred to as the annual grant) of such amount as is certified under the provisions herein-after contained; and

(*b.*) Be issued from the local taxation account by half-yearly payments out of the annual grant to each such spending

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Sect. 1. Note. Sub-s (1).

The words of this section printed in italics are repealed by the Agricultural Rates Act, 1896, &c., Continuance Act, 1901 (1 Ed. VII. c. 13), and the Act is continued by that Act until the thirty-first day of March, 1906.

Sub-s. (2).

This Act applies to poor rates which fall within the definition of "rate" contained in sect. 9. The rates which are excluded from the operation of this Act by sect. 1 (2) (*a*) are: General district rates in urban districts, levied under sect. 211 of the Public Health Act, 1875; separate rates levied for special expenses of a rural district council, under sect. 230 of the Public Health Act, 1875; lighting and watching rates, under sect. 33 of the Lighting and Watching Act, 1833 (3 & 4 Will. 4, c. 90); sewers rates formerly levied under sect. 163 of the Metropolitan Management Act, 1855 (18 & 19 Vict. c. 120), and now levied as part of the general rate in pursuance of schemes made under the London Government Act 1899 (62 & 63 Vict. c. 14), in accordance with sect. 10 of that Act; and rates made under sect. 18 of the Public Libraries Act, 1892 (55 & 56 Vict. c. 53).

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Sect. 2. Note.

For the meaning of the "local taxation account" see sect. 9 of this Act, and sect. 20 (1) of the Local Government Act, 1888. Payments are made to this account out of the proceeds of the estate duty on personal property, under sect. 12 of the Finance Act, 1894 (57 & 58 Vict. c. 30).

authority a share of that grant of such amount as is certified under the provisions herein-after contained. Sect. 2.

(2) The Commissioners of Inland Revenue, in such manner, by such payments, and under such regulations, as the Treasury direct, shall pay to the local taxation account, out of the proceeds of the estate duty derived in England from personal property, the annual sum required by this section to be paid to that account.

(3) The first of those payments shall be made during the six months ending on the thirty-first day of March next after the passing of this Act, so as to make up a half-yearly payment to meet the issues to spending authorities on account of the six ensuing months.

Contributions from more than one parish.

III.—(1) Where any spending authority require in any half-year or other period to raise from two or more parishes a sum by a rate to which this Act applies, they shall, in determining the net amount to be so raised, deduct the sum issuable to them in respect of the said rate on account of their share of the annual grant for the said half-year or other period, and the net amount after that deduction shall, where it would otherwise be raised in proportion to the rateable value, be raised in proportion to the assessable value of those parishes.

(2) For the purposes of this section the assessable value of a parish shall be the rateable value thereof reduced by an amount equal to one-half of the rateable value of the agricultural land in the parish.

Certifying of annual sums payable in respect of deficiency.

IV.—(1) The Local Government Board shall, as soon as may be after the passing of this Act, certify the amount—

(*a.*) Of the annual grant to be paid to the local taxation account; and

(*b.*) Of the share of such grant to be paid annually to each spending authority,

under this Act, and for that purpose shall determine in the prescribed manner the amount which for the purposes of this

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Sect. 3. Note.

By a local Act passed in 1891 the lunatic asylums board of a county containing county boroughs were directed to raise in every year by contributions from the county and county boroughs part of the expenses incurred by the board in the execution of their duties, and to divide the estimated amount to be raised for each year between the county and the county boroughs in proportion to their respective rateable values as ascertained under sect. 33 of the Local Government Act, 1888:—*Held*, that the provisions of the local Act were not affected by the Agricultural Rates Act, 1896, and that the board was still bound to divide the estimated amount between the county and the county boroughs in proportion to their respective rateable values, and not according to their respective assessable values as ascertained under this Act, and the regulations of the Local Government Board made in pursuance of it. *Lancashire Asylums Board* v. *Manchester Corporation*, [1900] 1 Q. B. 458; 69 L. J. Q. B. 234; 82 L. T. 1; 48 W. R. 356; 64 J. P. 101.

Sect. 4.

Act is to be taken as having been raised during the last year before the passing of this Act by any rate to which this Act applies for the expenditure of each spending authority.

(2) Such proportion of the whole amount so taken to be raised in respect of any hereditaments or parishes as the Local Government Board estimate to be the proportion of the total rateable value of those hereditaments or parishes which represents the value of agricultural land, shall be taken for the purposes of this Act as the amount raised during the said year by the said authority, by the said rate, in respect of agricultural land, and one-half of that amount shall be taken as the deficiency which will arise from the provisions of this Act in the produce of the said rate.

(3) A sum equal to the total amount of the deficiencies thus estimated for all the spending authorities in England shall be the amount of the annual grant, and a sum equal to the deficiency thus estimated in the case of each spending authority shall be the share of that spending authority in the annual grant, and the Local Government Board shall certify the same accordingly.

(4) The Local Government Board, in acting under this section, shall obtain such information and make such inquiries, and in such manner as they think fit.

(5) The Local Government Board may in case of error amend, or for the purpose of meeting any alteration in an area or authority to which a certificate relates may vary, a certificate under this section, and any such amendment or variation shall have effect from the date of the original certificate, or any later date fixed by the board; but, save as aforesaid, a certificate shall be final and binding on all persons.

(6) The Local Government Board may give provisional certificates, if they think necessary, for the purpose of enabling the first payments to and out of the local taxation account under this Act to be made, before they have sufficient information to enable them to give final certificates.

Separate statement in valuation

V. In every valuation list and in the basis or standard for any county rate, and in any valuation made by the council of

Sect. 5.

Note.

Valuation lists are made for parishes outside the metropolis under the Union Assessment Committee Acts, 1862, 1864, and 1880 (25 & 26 Vict. c. 103; 27 & 28 Vict. c. 39; and 43 & 44 Vict. c. 7), and within the metropolis under the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67). The basis or standard for the county rate is now prepared and revised by the county councils, under sect. 3 of the Local Government Act, 1888. In the metropolis, however, the valuation lists are, by sect. 45 of the Valuation (Metropolis) Act, 1869, made conclusive evidence of the gross and rateable values of the several hereditaments comprised therein, and of the fact that all hereditaments required to be inserted therein have been so inserted for the purpose of the county rate. Valuations

a borough or any other council for the purpose of raising the borough or other rate—

Sect. 5.

lists, &c. of value of agricultural land.

(*a.*) Where separate hereditaments are specified therein, the value of agricultural land shall be stated separately from that of any other building or hereditament; and

(*b.*) In every case the total rateable value of the agricultural land in each parish shall be stated separately from the total rateable value of the buildings or other hereditaments in such parish; and whenever a copy of the total of the rateable value of any parish is required to be sent to any person, such copy shall state both the above-mentioned totals; and

(*c.*) Where any hereditament consists partly of agricultural land and partly of buildings, the gross estimated rental of the buildings, when valued separately, in pursuance of this Act, from the agricultural land shall, while the buildings are used only for the cultivation of the said land, be calculated not on structural cost, but on the rent at which they would be expected to let to a tenant from year to year, if they could only be so used; and the total gross estimated rental of the hereditament shall not be increased by the said separate valuation.

Procedure for ascertaining deficiency and for separation of value of agricultural land from buildings and other hereditaments.

VI.—(1) For the purposes of this Act returns shall be made to the Local Government Board in accordance with the prescribed regulations—

(*a.*) By every spending authority in relation to the sums actually received by them or their predecessors during the year next before the passing of this Act from any rate to which this Act applies; and

(*b.*) By every assessment committee or council whose duty it is to revise or make a valuation list, basis, standard or other valuation for any parish, in relation to the gross estimated rental and rateable value of that parish, and the proportion thereof which represents agricultural land; and

(*c.*) By any such authority, committee, or council in relation to any other prescribed information.

(2) For the purpose of the returns, statements showing the gross estimated rental and rateable value of the agricultural land in a parish, and, in the case of any hereditament separately

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Sect. 5. Note.

may be made by the council of a borough for the purpose of raising the borough rate, under sect. 144 of the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50).

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Sect. 6. Note.

An order of the Local Government Board dealing with and providing for the matters in this section mentioned was issued, dated July 28th, 1896, styled the Agricultural Rates Order, 1896. It contains, in addition, all the forms embodying the alterations of the poor rate necessitated by this Act.

Sect. 6.

valued which consists in part of agricultural land and in part of buildings or other hereditaments, of each such part, shall be made by the overseers of every parish, and corrected by the assessment committee, and sent to the surveyor of taxes, and be subject to objection or appeal by the said surveyor and overseers before the assessment committee, and the justices in special sessions, and the court of quarter sessions, and subject to the right of any aggrieved ratepayer to be heard upon the said appeal, in such form, within such times, and generally in such manner, and subject to such provisions, as may be prescribed. These provisions shall conform as nearly as circumstances will permit to the existing statutory law respecting valuation lists, as regards notices, rights to inspect and take extracts, the hearing of objections, and otherwise.

(3) The Local Government Board may by order make regulations for the purposes of this section, and also generally for carrying into effect this Act, and those regulations shall be laid before both Houses of Parliament, and if neither House of Parliament within ten days passes a resolution adverse to the said order, they shall be binding in law until varied in the same manner, shall have effect as if they were enacted in this Act, and shall amongst other matters provide—

(*a.*) For fixing, with the concurrence of the Treasury, for the purpose of the division in the statements of agricultural land from buildings or other hereditaments, the minimum gross estimated rental and rateable value of the buildings or other hereditaments;

(*b.*) For giving effect to a notice of objection or appeal by the surveyor of taxes unless it is proved that such notice is unfair or incorrect;

(*c.*) For the temporary adoption by the county council or any other council, of the division in the return between the total rateable value of agricultural land and that of buildings and other hereditaments;

(*d.*) For the alteration of the valuation list in accordance with the statements as finally settled and sending copies of the returns to spending authorities and for applying and adapting any statutory form or procedure respecting the valuation list or poor rate; and

(*e.*) For adapting this Act to cases where there is no valuation list, or where a sum is raised by rate from an area not a parish.

(4) The regulations may also provide fines for the breach thereof not exceeding forty shillings, or in case of any continuing offence not exceeding forty shillings a day during the continuance of the offence, and any such fine may be recovered as a Crown debt or to an amount not exceeding one hundred pounds before a court of summary jurisdiction.

Sect. 7.

As to spending authorities.

VII.—(1) Where the spending authority are a school board for a school district which is a parish, or the surveyors of highways, the amount which would otherwise be payable under this Act to the spending authority may be paid to the guardians of the poor law union in which the parish is situate, and, if so paid, shall be paid or credited by them to the spending authority.

(2) Every sum paid under this Act out of the local taxation account to any spending authority in respect of any rate, shall, for the purpose of its application, of account, and of audit, be deemed to have been raised by the said rate.

33 & 34 Vict. c. 75.

(3) For the purposes of section ninety-seven of the Elementary Education Act, 1870, any amount paid or credited under this Act out of the local taxation account to a school board shall be deemed to have been actually paid by the rating authority, and the amount which would have been raised or been produced by a rate of threepence in the pound on the rateable value shall be calculated in like manner as if this Act had not passed.

As to limit of rate or expenditure in case of any local authority.

VIII. A limit imposed by any enactment on a rate shall be construed as being only a limit on the amount to be raised by that rate, and where by that limit or otherwise the sum to be raised or expended by a local authority is limited by any enactment by reference to a rate, the limit shall be varied so as to enable the local authority to raise or expend the same sum as they might have done if this Act had not passed, and in the case of a spending authority receiving any sum paid under this Act out of the local taxation account in respect of such rate that sum shall be deemed to be part of the sum raised thereby.

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Sect. 7. Note.

The powers of surveyors of highways, who are appointed as the highway authority for highway parishes under sect. 6 of the Highway Act, 1835 (5 & 6 Will. 4, c. 50), are now transferred by sect. 25 of the Local Government Act, 1894, to the district councils, unless the county council has by order postponed the operation of that section for such a time as the Local Government Board has allowed.

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Sect. 8. Note.

The following are rates upon which there is "a limit imposed by enactment": Metropolitan Police Rates, by sect. 23 of the Metropolitan Police Act, 1829 (10 Geo. 4, c. 44), and sect. 2 of the Police Rate Act, 1868 (31 & 32 Vict. c. 67); highway rates, by sect. 29 of the Highway Act, 1835 (5 & 6 Will. 4, c. 50), and sect. 33 of the Highway Act, 1864 (27 & 28 Vict. c. 101); separate rates made in parts of parishes of boroughs in aid of the watch rate, by sect. 198 of the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50); rates for the purposes of the Technical Instruction Act, 1889 (52 & 53 Vict. c. 76); rates for the purposes of the Museums and Gymnasiums Act, 1891 (54 & 55 Vict. c. 22); rates for the purposes of the Public Libraries Act, 1892 (55 & 56 Vict. c. 53); rates for defraying the expenditure of parish councils and parish meetings under sects. 11 (3) and 19 (9) of the Local Government Act, 1894.

Sect. 9.

IX. In this Act, unless the context otherwise requires—

Definitions.

The expression "rate" means a rate made during the continuance of this Act, the proceeds of which are applicable to public local purposes, and which is leviable on the basis of an assessment in respect of the yearly value of property, and includes any sum which, though obtained in the first instance by a precept, certificate, or other instrument requiring payment from some authority or officer, is or can be ultimately raised out of a rate as before defined :

The expression "rateable value" in the case of the county rate, or any other rate, levied according to any annual value not being rateable value as stated in the valuation list, means that annual value :

25 & 29 Vict. c. 103 ; 27 & 28 Vict. c. 39 ; 32 & 33 Vict. c. 67.

The expression "valuation list" means a valuation list under the Union Assessment Committee Acts, 1862 and 1864, or, in the metropolis, under the Valuation (Metropolis) Act, 1869 :

The expression "spending authority" means any of the local authorities in England mentioned in the schedule to this Act :

The expression "occupier" includes owner where the owner is rated in place of the occupier :

51 & 52 Vict. c. 41.

The expression "local taxation account" has the same meaning as in the Local Government Act, 1888 :

[For this meaning, see sect. 20 (1) of the Local Government Act, 1888.]

The expression "prescribed" means prescribed by order of the Local Government Board :

The expression "agricultural land" means any land used as arable, meadow, or pasture ground only, cottage gardens exceeding one quarter of an acre, market gardens, nursery grounds, orchards, or allotments, but does not include land occupied together with a house as a park, gardens, other than as aforesaid, pleasure grounds, or any land kept or preserved mainly or exclusively for purposes of sport or recreation, or land used as a racecourse :

[A market garden consisted of four acres, upon two acres of which glasshouses had been erected for the cultivation of grapes, tomatoes, cucumbers, &c., and the net rateable value of the property was 431*l*. The market gardener claimed to be relieved under this Act of half the rate payable in respect of his greenhouses as well as of the rest of his land :—*Held*, that he was not entitled to the relief in respect of the glasshouses, which must be rated as buildings and not as agricultural land (*Smith* v. *Richmond, Surveyor of Taxes*, [1899] A. C. 448 ; 68 L. J. Q. B. 898 ; 81 L. T. 269 ; 48 W. R. 115 ; 63 J. P. 804).]

The expression "cottage" means a house occupied as a dwelling by a person of the labouring classes :

The expression "year" means the local financial year, that

is to say, the twelve months beginning on the first day of April, or where the spending authority do not make up their accounts to that day on the nearest day thereto to which they do make up their accounts, or on any other prescribed day. Sect. 9.

X. This Act may be cited as the Agricultural Rates Act, 1896. Short title.

SCHEDULE.

*Spending Authorities.*

County councils, councils of county boroughs, councils of boroughs and other urban districts and of rural districts, boards of guardians, the receiver of the metropolitan police district, school boards, highway boards, surveyors of highways.

## PUBLIC WORKS LOANS ACT, 1896.

59 & 60 VICT. CHAP. 42.

An Act to grant Monies for the purpose of certain Local Loans, and for other purposes relating to Local Loans.

[14th August, 1896.]

* * * * *

II. There shall be added to the works for the purpose of which the Public Works Loan Commissioners may lend in Great Britain under the Public Works Loans Act, 1875, the following works, namely— Addition to purposes for which Public Works Loan Commissioners may lend.

Any work for which the council of a county, borough, district, or parish are authorized to borrow ;

The construction or improvement of any canal ; 38 & 39 Vict. c. 89.

Provided that where the repayment of a loan for the construction or improvement of a canal is collaterally secured to the satisfaction of the Public Works Loan Commissioners, the rate of interest on the loan may be three-and-a-quarter per cent. per annum instead of the rate of four per cent. per annum authorized by the Public Works Loans Act, 1892. 55 & 56 Vict. c. 61, s. 2.

* * * * *

VI. This Act may be cited as the Public Works Loans Act, 1896. Short title.

# POOR LAW OFFICERS SUPERANNUATION ACT, 1896.

59 & 60 VICT. CHAP. 50.

An Act to provide for Superannuation Allowances to Poor Law Officers and Servants, and for Contributions towards such Allowances by such Officers and Servants; and to make other relative provisions. [14th August, 1896.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title and commencement of Act.

I. This Act may be cited as the Poor Law Officers Superannuation Act, 1896, and shall come into operation from and immediately after the twenty-ninth day of September one thousand eight hundred and ninety-six.

*Superannuation.*

Title of officers and servants to superannuation allowances.

27 & 28 Vict. c. 42.

II. Subject to the provisions of this Act, every officer and servant in the service or employment of the guardians of a union or parish who shall become incapable of discharging the duties of his office with efficiency, by reason of permanent infirmity of mind or body, or of old age, or who shall have attained the age of sixty years and have completed an aggregate service of forty years, or who shall have attained the full

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Sect. 1.

Note.

This Act, as amended with respect to female nurses by the Poor Law Officers Superannuation Act Amendment Act, 1897 (60 & 61 Vict. c. 28), codifies the law with regard to the superannuation of poor law officers, and by sect. 20 repeals all previous enactments on the subject subject to certain qualifications. The repealed enactments will be found in the schedule. Compensation, however, is payable under the unrepealed portion of the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 20, to officers deprived of employment by the dissolution of a union, and under the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 15, to officers deprived of employment by the addition or separation of a parish to or from a union. And any allowance or compensation payable to an officer of a parish which is added to a union is to be paid by the guardians of the union and charged to that parish (The Dissolved Boards of Management and Guardians Act, 1870 (33 & 34 Vict. c. 2), s. 9).

The metropolitan borough councils and the London County Council may grant superannuation allowances to their respective officers who have completed the age of sixty years (Superannuation (Metropolis) Act, 1866 (29 & 30 Vict. c. 31)); and officers and servants employed about any public baths or washhouses within the metropolis are to be deemed officers entitled to receive such allowances (Baths and Washhouses Act, 1878 (41 & 42 Vict. c. 14), s. 12).

Sect. 2.

age of sixty-five years, shall be entitled on resigning or otherwise ceasing to hold his office or employment to receive during life out of the common fund of the union, a superannuation allowance according to the scale laid down in this Act.

An officer or servant shall not be entitled to an allowance on the ground of old age unless he has completed the full age of sixty years.

Where an officer or servant has attained the age of sixty-five years and the guardians are of opinion that it would be expedient in the interests of the public service that he should cease to hold his office or employment, it shall be competent for them to require him to retire upon payment to him of the superannuation allowance to which he may be entitled under this Act.

Scale of superannuation allowances.

III. The scale for superannuation allowances under this Act shall be as follows, that is to say :—

An officer or servant who has served for ten years but less than eleven years shall be entitled to an annual allowance equal to ten-sixtieths of the average amount of his salary or wages and emoluments during the five years ending on the quarter day which immediately precedes the day on which he ceases to hold his office or employment,

With an addition of one-sixtieth of such average amount for every additional completed year of service until the completion of a period of service of forty years, when a maximum allowance of forty-sixtieths shall be granted.

Reckoning service.

IV. All service by an officer or servant under any authority or authorities to whom this Act applies shall be aggregated and reckoned for the purposes of this Act, whether this service has been continuous or not, and whether his whole time has been devoted to the service or not.

Power to add a number of years in certain cases.

V. The guardians in computing the amount of superannuation allowance to any officer or servant may, in consideration of peculiar professional qualifications, or of special circumstances, and with the consent of the Local Government Board, add a number of years not exceeding ten to the number of years which the officer or servant has actually served in the aggregate.

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Sect. 3.

Note.

The poor law authorities have apparently no such discretion, except under sect. 8, *infra*, either as to granting or fixing the amount of a superannuation allowance under this Act, as is possessed by the metropolitan borough councils and the London County Council under the Superannuation (Metropolis) Act, 1886 (29 & 30 Vict. c. 31). (See as to the powers and obligations of those authorities with respect to superannuation allowance, *Reg.* v. *St. Pancras Vestry*, 24 Q. B. D. 371; 59 L. J. Q. B. 244; *Reg.* v. *Bromley St. Leonard*, 60 J. P. 725.)

Sect. 6.

Case of subsequent appointment.

VI. Where a person in receipt of a superannuation allowance under this Act is appointed to any office or employment by any authority to whom this Act applies, such allowance shall cease to be paid so long as he continues to hold such office or employment, if the salary or wages and emoluments thereof are equal to, or in excess of the amount of such allowance; if they are not, then only so much of such allowance shall be paid so long as he holds such office or employment as will make up the deficiency.

Any such person on ceasing to hold such office or employment shall be entitled to revert to and to receive the full amount of his original superannuation allowance from the authority which granted it.

Forfeiture for fraud, &c.

VII. An officer or servant who is dismissed or resigns or otherwise ceases to hold office in consequence of any offence of a fraudulent character or of grave misconduct, shall forfeit all claim to any superannuation allowance under this Act in respect of his previous service, provided that in the case of any such officer or servant the guardians may, if they see fit, return to him out of the common fund of the union a sum equal to the amount of all or part of his contributions under this Act.

Return of contributions and power to grant gratuities and superannuation allowances in certain cases.

VIII. An officer or servant who has not become entitled to a superannuation allowance, and who loses his office or employment by reason of a reduction of staff, or of any alteration of areas or boundaries, or otherwise ceases to hold his office or employment by reason of bodily injury not occasioned by his own default, or of any other cause whatever other than his own misconduct or voluntary resignation, shall be entitled to receive, out of the common fund of the union, a sum equal to the amount of all his contributions to any such fund under this Act; but if he claims under this section and subsequently obtains a fresh office or employment, he shall not be entitled to reckon his service before obtaining such fresh office or employment towards a superannuation allowance under this Act, unless upon obtaining such fresh office or employment he pays the amount so received to the common fund of the authority under whom he obtains such fresh office or employment.

In any such case of loss of office or employment as aforesaid, the guardians may also, if they see fit, with the sanction of the Local Government Board, grant to the officer or servant a gratuity, payable out of the common fund of the union, not exceeding twice the amount of his salary or wages or emoluments during the year ending on the quarter day which immediately precedes the day on which he ceases to hold his office or employment.

Provided that when such loss of office or employment occurs in a case in which the death, resignation, or insanity of one of the holders of a joint appointment vacates the office of the

other, the officer or servant whose office or employment is so vacated, shall, unless he is reappointed by the guardians, and except where in the case of husband and wife the joint appointment is terminated owing to the misconduct of one of them, be entitled to receive during life, out of the common fund of the union, a superannuation allowance, according to the scale laid down in this Act, if such officer or servant has attained the age of fifty years, or has served for not less than twenty years. Sect. 3.

IX. At least one month's notice in writing shall be given to every guardian of the time at which any proposal to add a number of years to the number of years which an officer or servant has actually served, or of any proposal to return contributions to an officer or servant who has been dismissed or required to resign, or of any proposal to grant a gratuity under this Act, will be considered. Notice of proposed grant of allowance.

X. Every superannuation allowance granted under this Act shall be payable to or in trust for the officer or servant, and shall not be assignable or chargeable with his debts or other liabilities. Allowances not assignable.

XI. Every board of guardians shall make annually to the Local Government Board, in the form and at the time prescribed by the board, a return of all superannuation allowances and gratuities paid by them under this Act, during the preceding year, with such particulars as to the name and ages of the recipients and otherwise as the board shall require. Annual returns to Local Government Board.

*Contribution.*

XII. Subject to the provisions of this Act, every officer and servant in the service or employment of the guardians of a union shall contribute annually for the purposes of this Act, a percentage amount of his salary or wages and emoluments according to the scale laid down by this Act, such amount to be from time to time deducted from the salary or wages payable to him and to be carried to and form part of the common fund of the union. Obligation of officers and servants to contribute.

XIII. The percentage amounts to be deducted annually for the purposes of this Act, shall be as follows, that is to say :— Scale of contributions.

In the case of officers and servants with less than five years' service at the passing of this Act, or appointed after the

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A superannuation allowance granted under this Act, being thus made inalienable by the grantee, cannot be taken in execution (*Lucas* v. *Harris*, 18 Q. B. D. 127; and see *Webb* v. *Stenton*, 11 Q. B. D. 518; *Booth* v. *Trail*, 12 Q. B. D. 8). Sect. 10. Note.

Sect. 13.

passing of this Act, two per cent. of the salary or wages and emoluments for each year :

In the case of officers and servants with more than five and less than fifteen years' service at the passing of this Act, two and a half per cent. of the salary or wages and emoluments for each year :

In the case of officers and servants with more than fifteen years' service at the passing of this Act, three per cent. of the salary or wages and emoluments for each year.

*Application of Act to other Authorities.*

Application of Act to district schools and asylums.

XIV. The provisions of this Act shall apply to the managers of district schools and sick asylums, and to the managers of the metropolitan asylums district, and to their officers and servants, in like manner as nearly as may be as they apply to guardians and to their officers and servants ; and the contributions of the officers and servants of such managers shall be carried to and form part of the fund applicable to the general expenses of such managers, and the superannuation allowances and gratuities under this Act shall be paid out of the said fund.

*Existing Officers and Servants.*

Saving for existing officers and servants.

XV. Any officer or servant in the service or employment of guardians or any other authority to whom this Act applies may at any time within three months after the commencement of this Act signify in writing to such authority his intention not to avail himself of the provisions of this Act, and in that event it shall not be obligatory on him, notwithstanding anything in this Act contained, to make any contributions or submit to any deduction from his salary or wages under this Act, nor shall he be entitled to receive any superannuation allowance, gratuity, or other benefit, under this Act.

27 & 28 Vict. c. 42.

Any such officer or servant who has given such notice as aforesaid shall remain subject to the provisions of the Poor Law Officers Superannuation Act, 1864, and the Acts amending the same as if this Act had not been passed, and those provisions shall for the purposes of this enactment continue in force notwithstanding their repeal by this Act.

Sect. 14.

Note.

For the appointment and powers of managers of district schools and sick asylums, see the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), ss. 42—48; and the Poor Law (Schools) Act, 1848 (11 & 12 Vict. c. 82), s. 2; of the managers of the metropolitan asylums district, see the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6).

Sect. 15.

Note.

Female nurses may, under the Poor Law Officers Superannuation Act, Amendment Act, 1897 (60 & 61 Vict. c. 28), give notice that they will not avail themselves of the provisions of this Act.

*Miscellaneous.*

Sect. 16.

Provision in case of paid collectors.

XVI. In the case of a paid collector of rates or assistant overseer appointed by the guardians of a union for any parish or parishes forming part of the union, the contributions of such collector or assistant overseer shall be carried by the guardians to the credit of the parish or parishes out of which his salary or emoluments is or are paid, in proportion to his respective salaries or emoluments, and any allowance or gratuity to him under this Act shall be charged to the same parish or parishes in the like proportions.

Provision in case of superintendent registrars.

XVII. Superintendent registrars, who are remunerated wholly or partly by fees, shall pay annually the due percentage amount of their fees to the guardians of their respective unions at the time or times prescribed by such guardians respectively, and such amounts shall be carried to and form part of the common fund of the union.

Every such superintendent registrar shall make annually in the month of October to the guardians of his union a return of the amount of the fees received by him as such superintendent registrar during the year ending on the preceding twenty-ninth day of September, and the amount so returned shall be taken as the basis upon which the percentage deduction shall be made and the superannuation allowance shall be calculated: Provided that such annual return shall be verified by a statutory declaration that the amount so returned does not exceed the total amount received by him as such superintendent registrar during the period in question.

Where the district of a superintendent registrar is situate in more than one union, the percentage amount of his fees to be carried to the common fund of each union and the amount of any superannuation allowance or gratuity to be paid to him by the guardians of each union shall be in proportion to the rateable value of the portions of the district in each union, to be ascertained by the valuation list in force, or, if there is no valuation list, by the last poor rate.

Power of Local Government Board to decide questions.

XVIII. The Local Government Board may, if they think fit, determine any question which may arise between guardians or any other authority to whom this Act applies and any officer or servant, and which may be referred to them by either party, as to the right to or the amount of superannuation allowance of such officer or servant, and the decision of the Local Government Board shall be binding and conclusive.

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Sect. 16.

Note.

A paid collector of poor rates or assistant overseer may be appointed by guardians upon the order of the Local Government Board under the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 62.

Sect. 19.
Definitions.

XIX. In this Act, unless the context otherwise requires—

"Guardians" includes the trustees or overseers of any parish appointed or incorporated under a local Act, and any vestry or other authority charged with the administration of the relief of the poor for any union, parish, or other area:

"Union" includes any parish or other area for which the relief of the poor is administered by guardians as above defined:

"Common fund of the union" means the fund out of which the salaries of the officers of the union, parish, or other area are paid:

"Officer" includes every officer in the service of an authority to whom this Act applies whether his whole time is devoted to the duties of his office or not; and for the purposes of this Act superintendent registrars and registrars of births and deaths and school attendance officers are deemed to be in the service of the guardians of the union in which their districts are situated:

"Servant" includes every servant regularly employed at wages by any such authority as aforesaid:

"Emoluments" includes all fees, poundage, and other payments made to any officer or servant as such for his own use; also the money value of any apartments, rations, or other allowances in kind appertaining to his office or employment:

"Joint appointment" includes any office the tenure whereof is determined by the death, removal, resignation, or incapacity of the holder of another office under the same authority.

Repeal of enactments.

XX. The enactments specified in the schedule to this Act are hereby repealed, subject to the qualification that this repeal shall not affect the payment of any superannuation allowance

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Sect. 20.
Note.

As no right already acquired is to be affected by the repeal of the enactments mentioned in the schedule, persons who at the passing of this Act were officers or servants in the employ of any authority to which the Act applies, will, if they give the notice required by sect. 15, *supra*, be entitled to such superannuation allowance as is given them under the Superannuation Act of 1864 (27 & 28 Vict. c. 42), the text of which is as follows:—

Superannuation allowances to poor law officers.

"1. The guardians of any union or parish, and the trustees or overseers of any parish appointed or incorporated under a local Act, may, at their discretion, with the consent of the Poor Law Board, grant to any officer whose whole time has been devoted to the service of the union or parish, and who shall become incapable of discharging the duties of his office with efficiency, by reason of permanent infirmity of mind or body, or of old age, upon his resigning or otherwise ceasing to hold his office, an annual allowance not exceeding in any case two-thirds of his then salary, whether computed according to a fixed sum or to a poundage, and shall charge such allowance to the same fund as that to which such salary would have been charged if he had continued in his office.

granted before the commencement of this Act, nor any other right or liability acquired or accrued nor anything duly done or suffered before the commencement of this Act; and the guardians of any union may, if they see fit, grant and pay a superannuation allowance under the said enactments to any officer who has retired before the commencement of this Act in the same manner, and subject to the same conditions, as if this Act had not been passed. Sect. 20.

XXI. This Act does not extend to Scotland and Ireland. Extent of Act.

THE SCHEDULE.

*Enactments Repealed.*

| Session and Chapter. | Title or Short Title of Act. | Extent of Repeal. |
|---|---|---|
| 27 & 28 Vict. c. 42 (1864). | An Act to provide for superannuation allowances to officers of unions and parishes. | The whole Act. |
| 29 & 30 Vict. c. 113 (1866). | The Poor Law Amendment Act, 1866. | Sections one to three. |
| 30 & 31 Vict. c. 106 (1867). | The Poor Law Amendment Act, 1867. | Sections eighteen and nineteen, and section twenty from "or when any parish" down to "allowance and." |
| 33 Vict. c. 2 (1870) . | The Dissolved Boards of Management and Guardians Act, 1870. | Section ten. |
| 33 & 34 Vict. c. 94 (1870). | The Medical Officers Superannuation Act, 1870. | The whole Act. |
| 39 & 40 Vict. c. 61 (1876). | The Divided Parishes and Poor Law Amendment Act, 1876. | Section seventeen. |

Sect. 20.

**Note.**

"2. This allowance shall be payable to or in trust for such officer only, and shall not be assignable nor chargeable with his debts or other liabilities. Allowances not to be assignable.

"3. No officer shall be entitled to such allowance on the ground of age who shall not have completed the full age of sixty years, and shall not have served as an officer of some union or parish for twenty years at the least. Age, and term of service.

"4. No grant shall be made without one month's previous notice, to be specially given in writing to every guardian of the union or parish, and to every member of the board of trustees or overseers (as the case may be), of the proposal to make such grant, and the time when it shall be brought forward. Notice of proposal to make grant to be given to guardians.

"5. The words herein used shall be interpreted in the manner prescribed by the Poor Law Amendment Act, 1834, and the subsequent Acts amending or explaining the same." Interpretation. 4 & 5 Will. 4, c. 76.

# THE LOCAL GOVERNMENT ACT, 1897.

60 & 61 VICT. CHAP. 1.

AN Act to amend the Law as to Qualifications for Elections to Parish Councils and as to the Annual Assembly of the Parish Meeting. [16th February, 1897.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Qualification of parish councillors.

I. Any person who has entered into residence on or before the twenty-fifth day of March in any year shall, if otherwise qualified for election as a parish councillor, be eligible for election at the parish council elections of the succeeding year notwithstanding that the period of his residence shall be under one year.

Date of assembly.

II. The annual assembly of the parish meeting shall be held on some day between the first day of March and the first day of April, both inclusive, in each year.

Repeal.
56 & 57 Vict. c. 73.

III. Rule (1) in Part One of the first schedule to the Local Government Act, 1894, is hereby repealed.

Short title.

IV. This Act may be cited as the Local Government Act, 1897.

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Sect. 1.
Note.

By sect. 3 (1) of the Local Government Act, 1894, residence for the whole of the twelve months preceding the election in the parish or within three miles of it was necessary to make any person eligible for the office of parish councillor; so that if the election happened to be held a few days before March 25th in any year, which was possible under rule (1) in part 1 of schedule 1 of that Act, and is possible now under sect. 2 of this Act, many persons who would have been eligible if the date of the election had been fixed for March 25th or some day subsequent would be ineligible but for the provisions of this section.

Sect. 2.
Note.

Rule (1) of part 1 of schedule 1 of the Local Government Act, 1894, provided that the annual assembly of the parish meeting should be held on March 25th in each year, or within seven days before or after that day.

# THE VOLUNTARY SCHOOLS ACT, 1897.

60 & 61 VICT. CHAP. 5.

An Act to provide for a Grant out of the Exchequer in Aid of Voluntary Elementary Schools, and for the Exemption from Rates of those Schools, and to repeal part of Section Nineteen of the Elementary Education Act, 1876.

[8th April, 1897.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Aid grant to voluntary elementary schools.

I.—(1) For aiding voluntary schools there shall be annually paid out of monies provided by Parliament an aid grant, not exceeding in the aggregate five shillings per scholar for the whole number of scholars in those schools.

(2) The aid grant shall be distributed by the Education Department to such voluntary schools and in such manner and amounts, as the department think best for the purpose of helping necessitous schools and increasing their efficiency, due regard being had to the maintenance of voluntary subscriptions.

(3) If associations of schools are constituted in such manner in such areas and with such governing bodies representative of the managers as are approved by the Education Department, there shall be allotted to each association while so approved—

(*a.*) A share of the aid grant to be computed according to the number of scholars in the schools of the association at the rate of five shillings per scholar, or, if the department fix different rates for town and country schools respectively (which they are hereby empowered to do) then at those rates; and

(*b.*) A corresponding share of any sum which may be available out of the aid grant after distribution has been made to unassociated schools.

(4) The share so allotted to each such association shall be distributed as aforesaid by the Education Department after consulting the governing body of the association, and in accordance with any scheme prepared by that body which the department for the time being approve.

(5) The Education Department may exclude a school from any share of the aid grant which it might otherwise receive, if, in the opinion of the department, it unreasonably refuses or fails to join such an association, but the refusal or failure shall not be deemed unreasonable if the majority of the schools in the association belong to a religious denomination to which the school in question does not itself belong.

(6) The Education Department may require, as a condition

Sect. 1.

of a school receiving a share of the aid grant, that the accounts of the receipts and expenditure of the school shall be annually audited in accordance with the regulations of the department.

(7) The decision of the Education Department upon any question relating to the distribution or allotment of the aid grant, including the question whether an association is or is not in conformity with this Act, and whether a school is a town or a country school, shall be final.

Repeal of 17*s.* 6*d.* limit in 39 & 40 Vict. c. 79, s. 19, as respects day schools in England and Wales.

II. After the last day of March one thousand eight hundred and ninety-seven, the following words in section nineteen of the Elementary Education Act, 1876, namely, "such grant shall not in any year be reduced by reason of its excess above the income of the school if the grant do not exceed the amount of seventeen shillings and sixpence per child in average attendance at the school during that year, but shall not exceed that amount per child, except by the same sum by which the income of the school derived from voluntary contributions, rates, school fees, endowments, or any source whatever other than the Parliamentary grant, exceeds the said amount per child, and" shall be repealed so far as they apply to day schools in England and Wales.

Exemption from rates of voluntary elementary schools.

III. No person shall be assessed or rated to or for any local rate in respect of any land or buildings used exclusively or mainly for the purposes of the schoolrooms, offices, or playground of a voluntary school, except to the extent of any profit derived by the managers of the school from the letting thereof.

Definitions.

IV. In this Act, unless the context otherwise requires—

The expression "voluntary school" means a public elementary day school not provided by a school board:

Any reference to the number of scholars in schools means the number of scholars in average attendance as computed by the Education Department:

The expression "local rate" means a rate the proceeds of which are applicable to public local purposes, and which is leviable on the basis of an assessment in respect of the yearly value of property, and includes any sum which, though obtained in the first instance by a precept, certificate, or other instrument requiring payment from some authority or officer, is or can be ultimately raised out of a local rate as before defined:

Other expressions have the same meaning as in the Elementary Education Acts, 1870 to 1893.

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Sect. 3. Note

By this section and the definitions in sect. 4, voluntary schools are exempted from the poor rate.

V.—(1) This Act shall not extend to Scotland or Ireland. Sect. 5.

(2) This Act may be cited as the Voluntary Schools Act, 1897. Extent of Act and short title.

# ELEMENTARY EDUCATION ACT, 1897.

## 60 & 61 VICT. CHAP. 16.

An Act to amend Section Ninety-seven of the Elementary Education Act, 1870. [3rd June, 1897.]

WHEREAS by section ninety-seven of the Elementary Education Act, 1870, it is enacted as follows:—

"Where the school board satisfy the Education Department that in any year ending the twenty-ninth of September the sum required for the purpose of the annual expenses of the school board of any school district, and actually paid to the treasurer of such board by the rating authority, amounted to a sum which would have been raised by a rate of threepence in the pound on the rateable value of such district, and any such rate would have produced less than twenty pounds, or less than seven shillings and sixpence per child of the number of children in average attendance at the public elementary schools provided by such school board, such school board shall be entitled, in addition to the annual Parliamentary grant in aid of the public elementary schools provided by them, to such further sum out of monies provided by Parliament as, when added to the sum actually so paid by the rating authority, would, as the case may be, make up the sum of twenty pounds, or the sum of seven shillings and sixpence for each such child, but no attendance shall be reckoned for the purpose of calculating such average attendance unless it is an attendance as defined in the said minutes":

And whereas it is expedient to amend the said section:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

I.—(1) Section ninety-seven of the Elementary Education Act, 1870, shall have effect as if the sum of seven shillings and sixpence therein mentioned were increased by the sum of fourpence for every complete penny by which the school board rate for the year therein mentioned exceeded threepence. Provided that the said sum of seven shillings and sixpence shall not be thereby increased beyond a maximum of sixteen shillings and sixpence. Power to increase grant under 33 & 34 Vict. c. 75, s. 97.

(2) "School board rate" means the rate in the pound on the rateable value of the district which would have produced the sum required in the said year for the purpose of the annual expenses of the board, and actually paid in that year to the treasurer by the rating authority.

Sect. 1.

(3) In calculating for the purpose of the said section ninety-seven and of this Act the annual expenses of a school board, the Education Department shall include such sum as is necessary for maintaining such working balance as the Education Department determine to be reasonable.

Commencement, construction, and short title.

II. This Act shall from and after the twenty-ninth day of September, one thousand eight hundred and ninety-seven, be construed as part of section ninety-seven of the Elementary Education Act, 1870, and shall not extend to Scotland or Ireland, and may be cited as the Elementary Education Act, 1897.

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# PREFERENTIAL PAYMENTS IN BANKRUPTCY AMENDMENT ACT, 1897.

60 & 61 VICT. CHAP. 19.

An Act to amend the Law regarding Preferential Payments in the case of Companies. [15th July, 1897.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

I. This Act may be cited as the Preferential Payments in Bankruptcy Amendment Act, 1897.

Priority of certain debts.
25 & 26 Vict. c. 89.
60 & 61 Vict. c. 19.
51 & 52 Vict. c. 62.

II. In the winding up of any company under the Companies Act, 1862, and the Acts amending the same, the debts mentioned in section one of the Preferential Payments in Bankruptcy Act, 1888, shall, so far as the assets of the company available for payment of general creditors may be insufficient to meet them, have priority over the claims of holders of debentures or debenture stock under any floating charge created by such company, and shall be paid accordingly out of any property comprised in or subject to such charge.

Payment of debts out of assets in certain cases.

III. In case a receiver is appointed on behalf of the holders of any debentures or debenture stock of a company secured by a floating charge, or in case possession is taken by or on behalf of such debenture-holders of any property comprised in or subject to such charge, then and in either of such cases, if the

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Sect. 2.

Note.

This Act is not retrospective. A winding-up order had, before the passing of this Act, been made against a company which had issued debentures creating a floating charge, and a receiver had been appointed in an action for realization of the debentures: *Held* that this Act did not in those circumstances apply so as to give priority over the debenture-holders to the preferential creditors referred to in this section (*In re Waverley Type Writer, D'Esterre* v. *Waverley Type Writer*, [1898] 1 Ch. 699; *Weeks* v. *Kent, Sussex and General Land Society*, [1898] W. N. 39).

company is not at the time in course of being wound up, the debts mentioned in section one of the said Preferential Payments Act shall be paid forthwith out of any assets coming to the hands of the receiver, or other person taking possession as aforesaid, in priority to any claim for principal or interest in respect of such debentures or debenture stock. And the periods of time mentioned in the said Act shall be reckoned from the date of the appointment of the receiver or possession being taken as aforesaid, as the case may be. But any payments made under this section shall be recouped as far as may be out of the assets of the company available for payment of general creditors. Sect. 3.

IV. In the application to Ireland of this Act the Preferential Payments in Bankruptcy (Ireland) Act, 1889, shall be substituted for the Preferential Payments in Bankruptcy Act, 1888, and in particular section four of the said Act of 1889 shall be substituted for section one of the said Act of 1888. Application to Ireland. 52 & 53 Vict. c. 60. 51 & 52 Vict. c. 62.

V. This Act shall not extend to Scotland. Extent of Act.

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# POOR LAW OFFICERS SUPERANNUATION ACT AMENDMENT ACT, 1897.

60 & 61 VICT. CHAP. 28.

An Act to amend the Poor Law Officers Superannuation Act, 1896, as respects Female Nurses appointed after the commencement of the said Act. [6th August, 1897.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal,

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Sect. 3. Note.

On November 9th, 1898, holders of debentures of a company commenced an action to enforce their security, and a receiver was appointed. The debentures were a charge on the undertaking of the company and its property present and future. On December 1st, 1898, the company went into liquidation. In January, 1899, the receiver paid poor rate and district rate made in October, 1898, and water rate, which was payable according to meter. He claimed to be recouped these payments as preferential payments under the Preferential Payments in Bankruptcy Act, 1888, and this Act:—*Held*, that the question being one between mortgagor and mortgagee, not between successive occupiers, and the poor rate and district rate being due from the company at the date of the commencement of the winding-up, the liquidators must pay the whole amounts out of the general assets of the company; but that the water rate was not due until the water was supplied, and must be apportioned, the liquidators paying only so much as was due at the date of the commencement of the winding-up. *In re Mannesmann Tube Co., Ld.; Von Sieman* v. *Mannesmann Tube Co. Ld.* [1901] 2 Ch. 93.

and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Saving as to female nurses. 59 & 60 Vict. c. 50.

I. Any female nurse appointed after the passing of this Act by any authority to whom the Poor Law Officers Superannuation Act, 1896, applies, who shall within two months from the date of her appointment signify in writing to such authority her intention not to avail herself of the provisions of the said Act, shall not be required to make any contribution or to submit to any deduction from her salary or wages under the said Act, and shall not be entitled to receive any superannuation allowance, gratuity, or other benefit under the said Act.

Any female nurse appointed after the commencement of the Poor Law Officers Superannuation Act, 1896, and before the passing of this Act, who shall, within one month from the passing thereof, signify her intention in writing not to avail herself of the provisions of the Poor Law Officers Superannuation Act, 1896, shall not be required to make any contribution or to submit to any deduction from her salary or wages under the said Act, and shall not be entitled to receive any superannuation allowance, gratuity, or other benefit under the said Act, and shall be entitled to repayment of any contributions made by her to the fund of the authority by whom she has been employed under the provisions of the said Act.

Short title.

In this section the term "nurse" includes any assistant nurse and attendant on the sick or insane.

II. This Act may be cited as the Poor Law Officers Superannuation Act Amendment Act, 1897.

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## THE POOR LAW ACT, 1897.

60 & 61 VICT. CHAP. 29.

An Act to amend the Law with respect to the borrowing of Money by Guardians and Managers of District Schools and Asylums, and to explain the Metropolitan Poor Act 1867. [6th August, 1897.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Provisions as to poor law loans. 52 & 53 Vict. c. 56.

I.—(1) A loan raised after the passing of this Act under section two of the Poor Law Act, 1889, shall be repaid within such period, not exceeding sixty years, as the guardians or managers with the sanction of the Local Government Board

Sect. 1. Note. Sub-s. (1).

By the repealed sect. 5 of the Union Loans Act, 1869 (32 & 33 Vict. c. 45), the limit of time for repayment of a loan by guardians &c., was thirty years.

may determine, either by equal yearly or half-yearly instalments of principal or principal and interest, or by means of a sinking fund. Sect. 1.

(2) The sinking fund shall be set apart, invested, and applied in accordance with the Local Loans Act, 1875, and the Acts amending that Act, and for the purpose of such application the prescribed rate shall be a rate not exceeding three per cent. per annum. Provided that the guardians or managers shall not invest in their own securities. 38 & 39 Vict. c. 83.

(3) Where any such loan has been contracted to be repaid by annual instalments, it may, with the consent of the lenders, be repaid by half-yearly instalments.

(4) Guardians and managers may borrow money under the said section two, without the consent of the Local Government Board, for the purpose of repaying any outstanding part of any loan borrowed either before or after the passing of the Poor Law Act, 1889, which they have power to repay.

(5) Any money so borrowed shall be repaid in the manner directed by this Act and within the same period as that originally sanctioned for the repayment of the loan, unless the Local Government Board consent to the period for repayment being enlarged, but that period shall not exceed sixty years from the date of the original borrowing.

(6) For the purpose of this section the expression "outstanding" means not repaid by instalments, or by means of a sinking fund, or out of capital money properly applicable to the purpose of repayment other than money borrowed for that purpose.

II. The power to provide land and buildings under the Metropolitan Poor Act, 1867, is hereby declared to include power to provide any land or buildings which may, in the opinion of the Local Government Board, be required for the purposes of that Act, and the provisions of section two of the Poor Law Act, 1889, with respect to loans by guardians of unions as amended by this Act, shall apply, for the purpose of Explanation and amendment of 30 & 31 Vict. c. 6.

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Sect. 1.

Note.

This sub-section (3) replaces the repealed sect. 3 of the Poor Law Loans Act, 1871 (34 & 35 Vict. c. 11).

Sub-s. (3).

This sub-section (4), which in effect takes the place of, although it does not repeal sect. 2 of the Poor Law Loans Act, 1871 (34 & 35 Vict. c. 11), does not enable guardians or managers who have contracted a loan to pay off such loan at any earlier date or in any other manner than is provided by the contract, except with the consent of the lender (*West Derby Union* v. *Metropolitan Life Assurance Co.*, [1897] A. C. 647; 66 L. J. Ch. 726; 77 L. T. 284; 61 J. P. 820).

Sub-s. (4).

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Sect. 2

Note.

The power of the managers of asylum districts to provide land and buildings under the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), is conferred by sects. 15, 16 of that Act.

Sect. 2.

borrowing under the Metropolitan Poor Act, 1867, instead of section seventeen of the last-mentioned Act, but with the substitution of "one-tenth of the rateable value of the district" for "one-fourth" of the rateable value of the union.

Repeal.

III. The Acts mentioned in the schedule to this Act are hereby repealed to the extent specified in the third column of that schedule.

Short title.

IV. This Act may be cited as the Poor Law Act, 1897.

SCHEDULE.

*Enactments Repealed.*

| Session and Chapter. | Short Title. | Extent of Repeal. |
|---|---|---|
| 4 & 5 Will. 4, c. 76 . | The Poor Law Amendment Act, 1834. | Section twenty-four from "and that any loan" to the end of the section. |
| 6 & 7 Will. 4, c. 107 . | The Poor Relief (Loans) Act, 1836. | The whole Act. |
| 30 & 31 Vict. c. 6 . | The Metropolitan Poor Act, 1867. | Section seventeen. |
| 31 & 32 Vict. c. 122 . | The Poor Law Amendment Act, 1868. | Section thirty-five from the commencement of the section to "thirty years; and" |
| 32 & 33 Vict. c. 45 . | The Unions Loan Act, 1869. | Section five. |
| 34 & 35 Vict. c. 11 . | The Poor Law Loans Act, 1871. | Sections one and three. |
| 42 & 43 Vict. c. 54 . | The Poor Law Act, 1879. | Section twelve. |
| 52 & 53 Vict. c. 56 . | The Poor Law Act, 1889. | In section two the words "and be paid off in the like time and manner and be borrowed and re-borrowed in the like manner," and the words "and to the managers of any asylum district not being the Metropolitan Asylum District." |

# THE CLEANSING OF PERSONS ACT, 1897.

60 & 61 VICT. CHAP. 31.

An Act to permit Local Authorities to provide Cleansing and Disinfection for Persons infested with Vermin.

[6th August, 1897.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Power to local authorities to provide cleansing, &c. for persons infested with vermin.

I. On and after the passing of this Act any local authority shall have the power, when in their discretion they shall see fit, to permit any person who shall apply to the said authority, on the ground that he is infested with vermin, to have the use, free of charge, of the apparatus (if any) which the authority possess for cleansing the person and his clothing from vermin. The use of such apparatus shall not be considered to be parochial relief or charitable allowance to the person using the same, or to the parent of such person, and no such person or parent shall by reason thereof be deprived of any right or privilege or be subject to any disqualification or disability.

Local authorities may expend any reasonable sum on buildings, appliances, and attendants that may be required for the carrying out of this Act, and any expenses for these purposes may be defrayed out of any rate or fund applicable by the authority for general sanitary purposes or for the relief of the poor.

Definition.

54 & 55 Vict. c. 76.

II. In this Act "local authority" means in England the council of any county borough, the district council of any district, any board of guardians, and in the county of London any sanitary authority as defined in the Public Health (London) Act, 1891.

Application to Scotland.

30 & 31 Vict. c. 101.

III. In the application of this Act to Scotland, "local authority" means and includes any local authority under the Public Health (Scotland) Act, 1867, and any Acts amending that Act; but the local authority shall not erect buildings for the purposes of section one hereof, except with the sanction of the Local Government Board for Scotland.

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Sect. 1. Note.

Where this Act is put in force by a board of guardians of a union the fund applicable to the purposes of the Act will be the common poor fund; Union Chargeability Act, 1865 (28 & 29 Vict. c. 79), s. 1; when it is put in force by the guardians of a parish the fund applicable will be the poor rate of the parish. In the metropolis the expenses do not appear to be repayable out of the metropolitan common poor fund, under the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), s. 69.

Sect. 2 Note

In metropolitan boroughs the borough council is now the sanitary authority by virtue of sect. 4 of the London Government Act, 1899 (62 & 63 Vict. c. 14).

Sect. 4.

Application to Ireland.

IV. In the application of this Act to Ireland,—

(1) The expression "local authority" means a sanitary authority under the Public Health (Ireland) Acts, 1878 to 1896:

(2) Any expenses incurred by a local authority in the execution of this Act shall be paid as part of the expenses of such authority in the execution of the Public Health (Ireland) Acts, 1878 to 1896, and in the case of a rural authority shall be general expenses:

(3) A local authority shall not purchase or erect buildings for the purposes of this Act without the consent of the Local Government Board for Ireland.

Short title.

V. This Act may be cited as the Cleansing of Persons Act, 1897.

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# THE LOCAL GOVERNMENT (JOINT COMMITTEES) ACT, 1897.

60 & 61 VICT. CHAP. 40.

An Act to amend the Local Government Act, 1894, with regard to Joint Committees for the purposes of the Burial Acts. [6th August, 1897.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Joint committees for Burial Acts.
56 & 57 Vict. c. 73.

I.—(1) Where a joint committee is appointed under section fifty-three of the Local Government Act, 1894, for the purposes of the Burial Acts, 1852 to 1885—

(*a.*) Any expenses incurred in carrying out those purposes shall be defrayed, any money borrowed for those purposes shall be borrowed, and any receipts arising from

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Sect. 1.

Note.

Sub-s. (1) (*a*).

By sect. 53 (2) of the Local Government Act, 1894, it is provided that the joint committee appointed in the cases contemplated in that section for the purposes of the Burial Acts shall exercise the powers and duties of the burial board which are transferred to the councils appointing the committee. By virtue of that enactment, therefore, the joint committee had to exercise, when necessary, the borrowing powers of the old burial boards, which was done by mortgaging the poor rates of the district for the amount of the loan under the Burial Acts, 1852, 1854, and 1857 (15 & 16 Vict. c. 85, s. 20; 17 & 18 Vict. c. 87, ss. 4, 5, and 20 & 21 Vict. c. 81, ss. 18—21). One effect of this sub-section is to transfer the exercise of the

Sect. 1.

those purposes shall be divided, by the councils appointing the committee in such proportion as they may agree upon, or, as in default of agreement, may be determined by the county council, or, if one of the councils so appointing is the council of a county borough, by the Local Government Board;

(*b.*) The consent of the Local Government Board shall be required to the borrowing by any council of any money required to be borrowed for those purposes, but that consent shall be conclusive as to the power of the council to borrow, and no other consent shall be required either under the said Burial Acts, or the Local Government Act, 1894, or any other Act;

(*c.*) Part IV. of the first schedule to the Local Government Act, 1894, shall apply to the proceedings of the committee.

(2) If any difference arises as to the constitution of any such committee, it may be determined by order of the Local Government Board.

(3) For the purposes of this section references to a council shall, in the case of a parish not having a parish council, include the parish meeting, and the parish meeting shall have the same power of borrowing for the purposes of the Burial Acts as a parish council would have.

II. This Act shall be construed as one with the Local Government Act, 1894, and may be cited as the Local Government (Joint Committees) Act, 1897. Short title.

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Sect. 1.

Note.

Sub-s. (1) (*a*).

borrowing powers of the burial board from the joint committee to the councils appointing the committee, but from the case cited below it appears that an urban district council will borrow upon the security of the poor rate, and not of the district rate.

Where an urban district council, under the power given by sect. 62 of the Local Government Act, 1894, take over the powers, duties, and liabilities of a burial board within their district, the expenses of carrying the Burial Acts into execution continue to be chargeable upon and payable out of the poor rate, and are not chargeable upon or payable out of the council's general district rate. (*Rex* v. *Connah's Quay* [1901], 2 K. B. 174.)

Sub-s. (1) (*b*).

Under the Burial Acts the sanction of the vestry and the approval of the Treasury were required to enable a burial board to borrow money, Burial Act, 1852 (15 & 16 Vict. c. 85), s. 20. By the Local Government Act, 1894, the consent of the parish meeting to the borrowing of money for purposes of the Burial Acts was substituted in rural parishes for the consent of the vestry (56 & 57 Vict. c. 73, s. 7 (3)); and the consent of the county council and of the Local Government Board was in such parishes substituted for the approval of the Treasury (56 & 57 Vict. c. 73, s. 12). The effect of this subsection is to abolish the necessity for any consent of the vestry and county council in cases where a parish council desires to borrow for the purposes of the Burial Acts.

# PUBLIC WORKS LOANS ACT, 1897.

60 & 61 VICT. CHAP. 51.

An Act to grant Monies for the purpose of certain Local Loans and to amend the Law respecting the Local Loans Fund and Loans made thereout, and for other purposes relating to Local Loans. [6th August, 1897.]

* * * * *

*Amendment of Acts.*

Reduction of interest on future local loans on the security of local rates.

I.—(1) The rates of interest at which loans may be made out of the local loans fund on the security of local rates may be fixed by the Treasury from time to time, having regard to the duration of the loans, and shall be such rates not less than two and three-quarters per cent. per annum as in the opinion of the Treasury are sufficient to enable such loans to be made without loss to the local loans fund.

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*Miscellaneous.*

Definitions, repeal, construction and short title.

XII.—(1) The expression "local rate" means any rate levied or assessed, the proceeds of which are applicable to public local purposes, and which is levied on the basis of a valuation of property, and includes any sum which, though obtained in the first instance by a precept, certificate, or other instrument requiring payment from some authority or officer, is or can be ultimately raised out of a rate as before defined.

(2) The expression "security of a local rate" includes a security guaranteed by any such local rate.

38 & 39 Vict. c. 89.

(3) This Act shall be deemed to be a special Act within the meaning of the Public Works Loans Act, 1875.

(4) The Acts specified in the second schedule to this Act are hereby repealed to the extent and from the date (if any) in the third column of that schedule mentioned.

(5) This Act may be cited as the Public Works Loans Act, 1897.

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## SECOND SCHEDULE.

*Acts Repealed.*

| Session and Chapter. | Short Title. | Extent of Repeal. |
|---|---|---|
| 36 & 37 Vict. c. 86 . | The Elementary Education Act, 1873. | In section ten the words "at the rate of three and a half per centum per annum." |
| 38 & 39 Vict. c. 55 . | The Public Health Act, 1875. | In section two hundred and forty-three, from "at the rate of three and a half" down to "loss to the Exchequer." |
| 38 & 39 Vict. c. 74 . | The Public Health (Scotland) Act, 1867, Amendment Act, 1875. | Section three, from "at the rate of three and a half" down to "loss to the Exchequer." |
| 40 & 41 Vict. c. 27 . | The Public Works Loans (Ireland) Act, 1877. | Section three from "at the rate of three and a half" down to "Exchequer." |
| 41 & 42 Vict. c. 52 . | The Public Health (Ireland) Act, 1878. | Section two hundred and forty-six, from "at the rate of three and a half" down to "loss to the Exchequer." |
| 42 & 43 Vict. c. 77 . | The Public Works Loans Act, 1879. | Section three. |
| 49 & 50 Vict. c. 45 . | The Public Works Loans Act, 1886. | Section ten. |
| 50 & 51 Vict. c. 16 . | National Debt and Local Loans Act, 1887. | As from the thirtieth day of September one thousand eight hundred and ninety-seven—<br>Section eleven, down to "Sinking Fund Act, 1875," namely, to the end of sub-section two.<br>Section twelve, the words in sub-section three "in respect of the annual sum payable to the restitution fund, and" and sub-section four;<br>And section fifteen, in sub-section one the words "to be made good by means of the Restitution Fund under this Act." |
| 55 & 56 Vict. c. 31 . | The Small Holdings Act, 1892. | Section nineteen, from "every loan by the Public" down to "Exchequer," being sub-section three. |
| 55 & 56 Vict. c. 61 . | The Public Works Loans Act, 1892. | Section six. |
| 56 & 57 Vict. c. 42 . | Elementary Education (Blind and Deaf Children) Act, 1893. | Section five, from "and shall bear such rate" to the end of the section. |

# THE INFANT LIFE PROTECTION ACT, 1897.

60 & 61 VICT. CHAP. 57.

An Act to amend the Law for the better Protection of Infant Life. [6th August, 1897.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

I. This Act may be cited as the Infant Life Protection Act, 1897.

Persons retaining or receiving for hire infants for the purpose of maintenance to give notice thereof.

II.—(1) Any person retaining or receiving for hire or reward in that behalf more than one infant under the age of five years for the purpose of nursing or maintaining such infants apart from their parents for a longer period than forty-eight hours, shall within the said forty-eight hours give notice thereof to the local authority.

(2) Such notice shall truly state the name, age, and sex of such infants, the name of the person receiving the infants, and the dwelling within which such infants are being kept, and the name and address of the person or persons from whom the infants have been received.

(3) If any such infant is removed from the care of the person who has received the infant for the purpose aforesaid, such person shall forthwith give to the local authority notice of the removal, and of the name and address of the person to whose care the infant has been transferred.

(4) If any person who has retained or received an infant as aforesaid omits to give the said notices, or any of them, or knowingly or wilfully makes or causes or procures any other person to make any false statement in any such notice, he shall be guilty of an offence against this Act.

Appointment and powers of inspectors, &c.

III.—(1) It shall be the duty of every local authority to provide for the execution of this Act within its district, and for that purpose it shall from time to time make inquiry whether there are any persons residing therein who retain or receive infants for hire or reward within the provisions of the preceding section.

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Sect. 1.

Note.

The authority for the enforcement of this Act in England, except in the county and city of London, is by sect. 15 and the schedule hereto, the board of guardians within each union; and the fund out of which the expenses of the Act are to be defrayed is the rate or fund applicable to the general expenses of the guardians.

Sect. 3.

(2) A local authority may, if it think fit, appoint male or female inspectors to enforce this Act, and, if any such persons retaining or receiving infants as aforesaid are found in its district, it shall either appoint such inspectors or arrange for the infants being visited by women nominated by the local authority and authorized by it in writing to enforce the provisions of this Act.

(3) A local authority may also, if it think fit, appoint or authorize in writing other suitable persons to execute the provisions of this Act, subject to such terms and conditions as may be stated in such appointment or authorization.

(4) Any local authority may combine with any other local authority for the purpose of executing the provisions of this Act, and for defraying the expenses of such execution.

(5) Any inspector or other person duly appointed and authorized in writing by or on behalf of the local authority shall from time to time inspect any infants referred to in any notice given under this Act, and the premises in which they are retained or received, in order to satisfy himself as to the proper maintenance of such infants or to give any necessary advice or directions as to such maintenance.

(6) If any person retaining or receiving such infants refuses to allow any such inspector or other person to inspect such infants or the premises in which they are retained or received he shall be guilty of an offence against this Act.

(7) If any such inspector or other person is refused admittance to any premises in contravention of this Act, or has reason to believe that any infants under the age of five years are being kept in any house or premises in contravention of this Act, he may apply to any stipendiary magistrate or to any two justices of the peace, who, on being satisfied, on information in writing made before him or them on oath, that there is reasonable ground for believing that an offence against this Act has been committed, may grant a warrant authorizing such inspector or other person to enter the house or premises for the purpose of inspection or of ascertaining whether any offence against this Act has been committed, and if the occupier of the house or premises or other person obstruct any inspector or other person acting in pursuance of such warrant, he shall be guilty of an offence against this Act.

Local authority to fix number of infants which may be retained.

IV. It shall be the duty of the local authority to fix the number of infants under the age of five years which may be retained or received in any dwelling in respect of which notice has been received under this Act, and any person retaining or receiving any infant in excess of the number so fixed, shall be guilty of an offence against this Act.

Notice to be given to local authority by

V. Any person retaining or receiving an infant under the age of two years on consideration of a sum of money not

Sect. 5.

person receiving an infant for not more than 20*l.* paid down.

exceeding twenty pounds paid down, and without any agreement for further payment, as value for the care and bringing up of the said infant until it is reclaimed or of an age to provide for itself, shall within forty-eight hours from the time of receiving such infant give notice of the fact to the local authority. If he does not give the notice required by this section, he shall be liable to forfeit the amount of any sum received by him in respect of such infant, or such less sum as the court having cognizance of the case shall deem just, and the court shall give directions as to the manner in which the sum forfeited shall be applied for the benefit of the infant, and shall, if necessary, cause the infant to be removed to a workhouse or place of safety, and the master of such workhouse shall receive such infant, which shall be maintained in the workhouse or place of safety until it can be otherwise lawfully disposed of.

Notice of provisions of Act.

VI. It shall be the duty of the local authority to give public notice of the provisions of this Act by the publication of an abstract thereof or otherwise as a Secretary of State may direct.

Removal of infant improperly kept.

VII.—(1) Should any infant, in respect of which notice is required to be given under this Act—

(*a.*) Be kept in any house or premises which are so unfit or so overcrowded as to endanger its health ; or

(*b.*) Be retained or received by any person who, by reason of negligence, ignorance, or other cause, is so unfit to have its care and maintenance as to endanger its health ;

any inspector or other person appointed for the purposes of this Act may apply to the local authority for an order in writing directing him to remove such infant to a workhouse or place of safety, until it can be restored to its relatives or guardians or be otherwise lawfully disposed of.

(2) Any person refusing to comply with an order under this section upon the same being produced and read over to him, or obstructing the inspector or other authorized person in the execution thereof, shall be guilty of an offence under this Act, and the inspector may apply to any justice of the peace for an order directing the removal of the child, and such order may be enforced by any police constable.

(3) The master of any workhouse shall receive into the workhouse any child brought there under such order, and such child shall be maintained in the workhouse until it can be otherwise disposed of.

(4) No infant shall be retained or received for hire or reward by any person from whose care any infant has been removed

Sect. 7.

Note.

Sub-s. (4).

There is only one Act styled "The Prevention of Cruelty to and Protection of Children Act," 1889 (52 & 53 Vict. c. 44); and that

under this section, or by any person convicted of any offence under the Prevention of Cruelty to and Protection of Children Acts, unless with the sanction in writing of the local authority; and any person retaining or receiving any infant contrary to this section shall be guilty of an offence against this Act. Sect. 7.

VIII. In case of the death of any infant respecting whom notice is required under this Act, the person having the care of such infant shall, within twenty-four hours of such death, cause notice thereof to be given to the coroner of the district within which the body of such infant lies, and the coroner shall hold an inquest thereon, unless a certificate under the hand of a registered medical practitioner shall be produced to him, certifying that such registered medical practitioner has personally attended or examined such infant, and specifying the cause of its death, and the coroner shall be satisfied by such certificate that there is no ground for holding such inquest. If the person having the care of such infant shall neglect to give the notice in this section mentioned he shall be guilty of an offence against this Act. Notice to coroner.

IX. Every person guilty of an offence under this Act shall be liable to a penalty not exceeding five pounds, or to imprisonment for not more than six months, as a court of summary jurisdiction may award. Penalties.

X. All expenses incurred by or on behalf of the local authority in and about the execution of this Act shall be defrayed out of the local rate. Expenses.

XI. Any offence under this Act may be prosecuted and any forfeiture recoverable before a court of summary jurisdiction in manner provided by the Summary Jurisdiction Acts. Prosecution of offences.

XII. Any monies arising from penalties under this Act shall, notwithstanding any provision in any other Act, be paid to the local authority, and be applied to the purposes to which the local rate is applicable. Application of fines.

XIII. Every notice by this Act required to be given to the local authority shall be in writing, and shall be sent by post as a registered letter to the clerk of the local authority, or to such other person as the local authority may appoint, or be delivered at the office of the local authority. Notices to local authority.

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Act is repealed by the "Prevention of Cruelty to Children Act, 1894" (57 & 58 Vict. c. 41), which Act also repeals the "Prevention of Cruelty to Children (Amendment) Act, 1894" (57 & 58 Vict. c. 27). Sect. 7.

In England, therefore, the only Act to which this sub-section can refer is the "Prevention of Cruelty to Children Act, 1894." Note. Sub-s. (4).

Sect. 14.

Exemptions.

XIV. The provisions of this Act shall not extend to the relatives or guardians of any infant by them retained or received as aforesaid, or to any person receiving any infant for the purpose of nursing or maintaining such infant under the provisions of any Act for the relief of the poor or of any order of the Local Government Board made under such Act; or to hospitals, convalescent homes, or institutions established for the protection and care of infants and conducted in good faith for religious or charitable purposes.

Definitions.

XV. The term "local rate," "local jurisdiction," and "local authority," mean in reference to the districts mentioned in the first column of the schedule to this Act, the rate, jurisdiction, and authority mentioned in the second, third, and fourth columns of the said schedule, and such schedule shall be deemed to be part of this Act. The term "place of safety" shall mean any suitable place, the occupier of which is willing temporarily to receive such infant. The term "relatives" shall mean and include the parents, grandparents, and uncles, and aunts, by consanguinity or affinity, of the infant retained or received as aforesaid, and in the case of illegitimate infants the persons who would be so related if the infant were legitimate.

Application to Scotland.

XVI. This Act in its application to Scotland shall be subject to the following provisions: The Secretary for Scotland shall be substituted for the Secretary of State; the Local Government Board for Scotland shall be substituted for the Local Government Board; the sheriff shall be substituted for a justice of the peace; the procurator fiscal shall be substituted for the coroner, and an inquiry by him into the cause of death for an inquest; the poorhouse shall be substituted for the workhouse; the inspector of poor shall be substituted for inspector; and the powers and duties which by section three hereof are conferred and imposed upon the inspector or other authorized person shall be conferred and imposed upon the inspector of poor.

Application to Ireland.

XVII. In the application of this Act to Ireland, the Chief Secretary shall be substituted for a Secretary of State, and the Local Government Board for Ireland shall be substituted for the Local Government Board.

Repeal.
35 & 36 Vict. c. 38.

XVIII. The Infant Life Protection Act, 1872, shall be repealed from the date of the commencement of this Act.

Commencement of Act.

XIX. This Act shall commence on the first day of January one thousand eight hundred and ninety-eight.

SCHEDULE REFERED TO IN THE FOREGOING ACT. Schedule.

*England and Wales.*

| District. | Local Rate. | Local Jurisdiction. | Local Authority. |
|---|---|---|---|
| County of London. | Rate or fund applicable to the payment of the general expenses of the council. | Area of the county of London (except the city of London). | London County Council. |
| City of London. | Consolidated sewers rate. | Area of the city of London and the liberties thereof. | Common Council. |
| Other places . | Rate or fund applicable to the general expenses of the guardians. | The poor law union. | The board of guardians. |

*Scotland.*

| | | | |
|---|---|---|---|
| Parish . . | The poor rate . | Area of parish . | Parish council. |

*Ireland.*

| | | | |
|---|---|---|---|
| In all places . | The poor rate . | The poor law union. | The board of guardians. |

# POOR LAW UNIONS ASSOCIATION (EXPENSES) ACT, 1898.

61 & 62 VICT. CHAP. 19.

An Act to provide for the establishment of a Poor Law Unions Association in England and Wales, and to enable Boards of Guardians to contribute to the expenses of the Association. [25th July, 1898.]

WHEREAS it is proposed that an Association of Poor Law Unions in England and Wales should be formed for the purposes of consultation as to their common interests and the discussion of matters relating to the poor law and other matters relating to their powers and duties:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords

spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Sect. 1.

Contribution by guardians to association.

I. The guardians of any poor law union may, when empowered by and subject to any regulations made by the Local Government Board, which regulations the said board is hereby authorized from time to time to make, vary, or rescind, pay any sum not exceeding five pounds in any one year as an annual or other subscription to the funds of the association as well as the reasonable expenses of the attendance of representatives, not exceeding in any case two, at meetings of the association, and may charge such payments to their common fund, or if they have no common fund to the fund under their control. Provided that no payment shall be made by the guardians in respect of the attendance of any representative at a meeting of the association unless the attendance of such representative at that meeting shall have been expressly authorized by a resolution passed at a meeting of the guardians held after not less than seven days' notice in writing that the proposal is to be considered at such meeting of the guardians has been sent to each guardian. Any such representative shall be either a guardian of the poor law union or (without power of voting) the clerk to the guardians of the union.

Local Government Board to certify establishment of association.

II. No payment shall be made in pursuance of this Act until the Local Government Board have certified that the association has been established.

Short title.

III. This Act may be cited as the Poor Law Unions Association (Expenses) Act, 1898.

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# POOR LAW (SCOTLAND) ACT, 1898.

61 & 62 VICT. CHAP. 21.

An Act to further amend the Law relating to the Settlement and Removal of the Poor in Scotland. [25th July, 1898.]

[This Act is included here on account of the provisions affecting the removal of English paupers from Scotland.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Repeal of 8 & 9 Vict. c. 83, s. 76.

I. Section seventy-six of the principal Act is hereby repealed, and in lieu thereof it is enacted as follows:—

Settlement by residence for three years.

From and after the commencement of this Act no person shall be held to have acquired a settlement in any parish

Sect. 1.

in Scotland by residence therein unless such person shall, either before or after, or partly before and partly after, the commencement of this Act, have resided for three years continuously in such parish, and shall have maintained himself without having recourse to common begging, either by himself or his family, and without having received or applied for parochial relief; and no person who shall have acquired a settlement by residence in any such parish, shall be held to have retained such settlement if during any subsequent period of four years he shall not have resided in such parish continuously for at least one year and a day; Provided always, that nothing herein contained shall, until the expiration of four years from the commencement of this Act, be held to affect any persons who, at the commencement of this Act, are chargeable to any parish in Scotland.

Reference cases of disputed settlement to determination of Local Government Board.

II. In any case where the parish councils of two or more parishes in Scotland have differed as to the settlement of a poor person but are agreed as to the facts on which such settlement depends, it shall be lawful for such parish councils to refer the case for determination by the Local Government Board, whose determination shall be final.

Appeal to Local Government Board against removal of paupers to another parish in Scotland.

III.—(1) Whenever any parish council shall order the removal of any poor person who shall have applied for parochial relief in any parish in Scotland from such parish to another parish in Scotland, such poor person, if he or she shall have resided continuously in such first-mentioned parish for not less than one year before the date of the application for relief (her deceased husband's residence, if necessary, being reckoned as part of her residence in the case of a widow), may, within ten days after intimation of such order, and of the right to appeal in this section mentioned, appeal to the Local Government Board, which board shall without delay investigate the grounds of such appeal, and determine whether it is reasonable and proper that such poor person shall be so removed. The inspector of poor of the parish whence the poor person is proposed to be removed shall be bound to intimate to the poor person the receipt of the order and the right of appeal; and no order of removal shall be carried out until the expiry of the said ten days, or, if an appeal is taken, until it has been disposed of by the board.

(2) If the board are of opinion that, having regard to the whole circumstances of the case, the removal is reasonable and proper they shall dismiss the appeal, and thereupon the order for the removal of the poor person may be carried out; but

(3) If the board are of opinion that, having regard to the whole circumstances of the case, the removal should not be carried out, they shall so determine, and if they think fit may

Sect. 3.

fix the period during which such determination shall have effect, and thereupon the provisions of section seventy-two of the principal Act shall apply as if the poor person appealing were, owing to sickness or infirmity, incapable of being removed, in which case the parish in which he is shall be bound to relieve him, and shall be entitled to recover from the parish to which he belongs the amount so expended, provided that such amount has been approved by the board.

Effect of five years' residence on irremovability of English born or Irish born pauper.

IV. Where an English born or Irish born poor person has resided continuously in Scotland for not less than five years (of which not less than one year shall have been continuously in the parish in which he applies for parochial relief) and shall have maintained himself without having recourse to common begging, either by himself or his family, and without having received parochial relief, he shall, on thereafter becoming chargeable to any parish in Scotland, be irremovable from Scotland and shall be maintained by the parish to which he has so become chargeable.

Provided that nothing in this section contained shall prevent such poor person from ceasing to be chargeable to such parish, if, as it shall be competent for him to do, he shall have acquired a settlement by residence in any other parish in Scotland in pursuance of section one of this Act.

Appeal to Local Government Board against removal of pauper to England or Ireland.
25 & 26 Vict. c. 113.

V.—(1) Whenever any parish council shall have obtained in terms of the Poor Law Removal Act, 1862, a warrant for the removal from any parish in Scotland to England or Ireland of any English born or Irish born poor person who has not acquired a settlement by residence in Scotland and to whom the immediately preceding section does not apply, such poor person, if he or she shall have resided continuously in such parish for not less than one year before the date of the application for relief (her deceased husband's residence, if necessary, being reckoned as part of her residence in the case of a widow), may, within fourteen days after intimation of the granting of such warrant and of the right to appeal in this sub-section mentioned, appeal to the Local Government Board, which board shall without delay investigate the grounds of such appeal, and determine whether it is reasonable and proper that such poor person shall be so removed. The inspector of poor of the parish whence the poor person is proposed to be removed shall be bound to intimate to the poor person the granting of the warrant and the right of appeal; and no warrant in terms of the Poor Law Removal Act, 1862, shall be carried out until the expiry of the said fourteen days, or, if an appeal is taken, until it has been disposed of by the board.

(2) In the case of a poor person as in the preceding sub-section mentioned, the inspector of poor shall also be bound to send by registered letter a notice to the clerk to the board

Sect. 5.

of guardians of the union or parish in England or Ireland named in the warrant of removal, that if they desire they may, within fourteen days after receipt of such notice, appeal to the Local Government Board against the removal, and shall with such notice transmit a copy of the depositions taken before the sheriff granting the warrant; and if the board of guardians shall so appeal, the Local Government Board shall without delay investigate the grounds of such appeal, and determine whether it is reasonable and proper that such poor person shall be so removed. No warrant in terms of the Poor Law Removal Act, 1862, shall be carried out until the expiry of the said fourteen days, or, if an appeal is taken, until it is disposed of by the board.

(3) The board, when deciding as to whether, in the whole circumstances of the case, such removal is reasonable and proper, shall have regard, *inter alia*, to—

(*a.*) The length and character of the residence in Scotland;

(*b.*) The causes why a settlement has not been acquired, or, if acquired, has not been retained; and

(*c.*) Any circumstances tending to show that the exercise of the power of removal would unduly injure the interests of the poor person on account of the industrial employment of his children or otherwise.

(4) If the board are of opinion that the removal should not be carried out they shall so determine, and their order to that effect shall be binding on any parish council in Scotland.

(5) If the board are of opinion that the removal is reasonable and proper they shall dismiss the appeal, and thereupon the warrant for the removal of the poor person may be carried out.

Provided also that if in consequence of a determination of the board that a proposed removal of a poor person to England or Ireland is not reasonable and proper, such removal cannot be carried out, the board shall determine, after due inquiry, which parish council or parish councils shall be liable for the expense of the maintenance of the poor person, and, if they think fit, in what proportions and under what conditions, and for what period, regard being had to the length and character of the poor person's residence in one or more of such parishes; and the determination of the board shall be binding on any parish council in Scotland.

Amendment of 25 & 26 Vict. c. 113.

VI. The power of granting warrants of removal under the Poor Law Removal Act, 1862, shall in Scotland be exerciseable by the sheriff only, and, in the case of a lunatic poor person

Sect. 6. Note.

Under the Poor Law Removal Act, 1862 (25 & 26 Vict. c. 113), warrants of removal might be signed either by the sheriff or by two justices of the county.

Sect. 6.

proposed to be removed to Ireland, the warrant shall order his delivery at the district asylum of the place to which he is to be removed.

Board may make, &c. rules and regulations.

VII. The board may make, and from time to time may alter and vary, rules and regulations for giving effect to the provisions of this Act, and regulating the procedure thereunder; and a copy of such rules and regulations, certified by the secretary of the board, shall be evidence of such rules and regulations and alterations thereof in any court of law and for any purpose whatever.

Saving.

VIII. Except in so far as expressly provided, nothing contained in this Act shall prejudice or affect the provisions of the principal Act or of the Poor Law Removal Act, 1862.

Definitions.

IX. In this Act, unless the subject or context otherwise requires—

The expressions "the Local Government Board" and "board" mean the Local Government Board for Scotland;

The expression "parish" includes "combination";

8 & 9 Vict. c. 83.

The expression "the principal Act" means the Poor Law (Scotland) Act, 1845.

Short title, construction and extent of Act.

X. This Act shall come into operation on the first day of October one thousand eight hundred and ninety-eight, and may be cited as the Poor Law (Scotland) Act, 1898, and, except in so far as expressly provided, shall be read and construed along with the principal Act and the Acts amending the same; and, except in so far as expressly provided, this Act shall apply to Scotland only.

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## METROPOLITAN POOR ACT, 1898.

61 & 62 VICT. CHAP. 45.

An Act to amend Section Sixty-nine of the Metropolitan Poor Act, 1867, as to the Expenses payable out of the Metropolitan Common Poor Fund. [12th August, 1898.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Amendment of 30 & 31 Vict. c. 6, s. 69, as to

I.—(1) Any institution for the maintenance of pauper children which would otherwise come within sub-section eight of section sixty-nine of the Metropolitan Poor Act, 1867, shall

not be deemed to be or to have been excluded therefrom by reason only of the children being educated at a public elementary school or elsewhere outside the institution. Sect. 1.

(2) If on any day the number of pauper children maintained in any district or separate school exceeds the number certified by the Local Government Board as the maximum number of children to be maintained in that school, no repayment shall be made from the metropolitan common poor fund in respect of the maintenance during that day of the children so in excess. Where children are received in any such school from more than one poor law union, so much of the cost of their maintenance as is not repaid from that fund shall be borne in such manner as the Local Government Board may by order direct. expenses payable out of metropolitan common poor fund.

II. This Act may be cited as the Metropolitan Poor Act, 1898. Short title.

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# VACCINATION ACT, 1898.

## 61 & 62 VICT. CHAP. 49.

An Act to amend the Law with respect to Vaccination.
[12th August, 1898.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

I.—(1) The period within which the parent or other person having the custody of a child shall cause the child to be vaccinated shall be six months from the birth of the child, instead of the period of three months mentioned in section sixteen of the Vaccination Act of 1867, and so much of that section as requires the child to be taken to a public vaccinator to be vaccinated shall be repealed. Vaccination within six months after birth. 30 & 31 Vict. c. 84.

(2) The public vaccinator of the district shall, if the parent or other person having the custody of a child so requires, visit the home of the child for the purpose of vaccinating the child.

(3) If a child is not vaccinated within four months after its birth, the public vaccinator of the district, after at least twenty-four hours' notice to the parent, shall visit the home of the child, and shall offer to vaccinate the child with glycerinated calf lymph, or such other lymph as may be issued by the Local Government Board.

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Compliance by the public vaccinator with the provisions of this sub-section is not a condition precedent to the right to take proceedings against a parent under sect. 31 of the Vaccination Act, 1867 (30 & 31 Vict. c. 84); *Pym* v. *Wilsher*; [1901] W. N. 126. Sect. 1. Note. Sub-s. (3)

Sect. 1.

(4) The public vaccinator shall not vaccinate a child, if, in his opinion, the condition of the house in which it resides is such, or there is or has been such a recent prevalence of infectious disease in the district, that it cannot be safely vaccinated, and in that case shall give a certificate under section eighteen of the Vaccination Act of 1867 of postponement of vaccination, and shall forthwith give notice of any such certificate to the medical officer of health for the district.

(5) Notwithstanding any regulation of any lying-in hospital or infirmary, or other similar institution, the parent of any child born in any institution shall not be compelled under such regulation or otherwise to cause or permit the child to be vaccinated at any time earlier than the expiration of six months from its birth.

Exemption from penalties.

II.—(1) No parent or other person shall be liable to any penalty under section twenty-nine or section thirty-one of the Vaccination Act of 1867, if within four months from the birth of the child he satisfies two justices, or a stipendiary or metropolitan police magistrate, in petty sessions, that he conscientiously believes that vaccination would be prejudicial to the health of the child, and within seven days thereafter delivers to the vaccination officer for the district a certificate by such justices or magistrate of such conscientious objection.

(2) This section shall come into operation on the passing of this Act, but in its application to a child born before the passing of this Act there shall be substituted for the period of four months from the birth of the child the period of four months from the passing of this Act.

Provision against repeated penalties.

III. An order under section thirty-one of the Vaccination Act of 1867, directing that a child be vaccinated, shall not be made on any person who has previously been convicted of non-compliance with a similar order relating to the same child.

Proceedings under 30 & 31 Vict. c. 84, s. 31.

IV. No proceedings under section thirty-one of the Vaccination Act of 1867 shall be taken against any parent or person who has been convicted under section twenty-nine of the said Act on account of the same child, until it has reached the age of four years.

Treatment of prisoners.

V. Persons committed to prison on account of non-compliance with any order or non-payment of fines or costs under the Vaccination Acts shall be treated in the same way as first class misdemeanants.

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Sect. 1. Note. Sub-s. (4).

The form of certificate is that numbered C. in the Vaccination Order, 1898.

Sect. 6.

Regulations of Local Government Board.

VI. The Local Government Board may make rules and regulations with respect to the duties and remuneration of public vaccinators, whether under contracts made before or after the passing of this Act.

Power to provide vaccination stations under exceptional circumstances.

VII. The Local Government Board may by order, if in their opinion it is expedient by reason of serious risk of outbreak of small-pox or of other exceptional circumstances, require the guardians of any poor law union to provide vaccination stations for the vaccination of children with glycerinated calf lymph or such other lymph as may be issued by the Local Government Board, and modify as respects the area to which the order applies, and during the period for which it is in force, the provisions of this Act requiring the public vaccinator to visit the home of the child otherwise than on request of the parent.

List to be kept of vaccinated persons treated in small-pox hospitals.

VIII. The clerk of any sanitary authority which shall maintain a hospital for the treatment of small-pox patients shall keep a list of the names, addresses, ages, and condition as to vaccination of all small-pox patients treated in the hospital, such entries to be made on admission, and shall at all reasonable times allow searches to be made therein, and upon demand give a copy under his hand or under that of his deputy of every entry in the same on payment of a fee of sixpence for each search, and threepence for each copy.

Repeal.

IX. The enactments mentioned in the schedule to this Act are hereby repealed, during the continuance of this Act, to the extent specified in the third column of that schedule.

Extent, commencement, duration, and short title.

X.—(1) This Act shall not extend to Scotland or Ireland.

(2) This Act shall, except as by this Act specially provided, come into operation on the first day of January one thousand eight hundred and ninety-nine, and shall remain in force until the first day of January one thousand nine hundred and four.

(3) This Act may be cited as the Vaccination Act, 1898, and the Vaccination Act of 1867, the Vaccination Act, 1871, the Vaccination Act, 1874, and this Act shall be construed together as one Act, and may be cited collectively as the Vaccination Acts, 1867 to 1898.

30 & 31 Vict. c. 84.
35 & 36 Vict. c. 98.
37 & 38 Vict. c. 75.

Schedule.

## SCHEDULE.

*Repeals.*

| Session and Chapter. | Short Title. | Extent of Repeal. |
|---|---|---|
| 30 & 31 Vict. c. 84 . | The Vaccination Act of 1867. | Section six.<br>Section seven from "and shall provide all stations" to the end of the section.<br>So much of section eight as fixes the amount of payment thereunder.<br>Section twelve.<br>In section fifteen, from "according to the provisions" to "performing the operation."<br>Section sixteen, the words "within three months after the birth of such child," and from "within three months after receiving" to "period as aforesaid," and from "and the public vaccinator" to the end of the section.<br>Section seventeen, to "vaccinations and," and in the same section the words "if the vaccinator so direct," and the words "and inspected as on the previous occasion."<br>Section nineteen.<br>In section twenty, the words "brought to him for vaccination."<br>In section twenty-nine the words "to take such child or," the words "to be taken," and the words "according to the provisions of this Act."<br>In section thirty-seven the word "of." |
| 34 & 35 Vict. c. 98 . | The Vaccination Act, 1871. | Section ten.<br>In section eleven the words "take or" and the words "to be taken." |

# PUBLIC WORKS LOANS ACT, 1898.

61 & 62 VICT. CHAP. 54.

An Act to grant Money for the purpose of certain Local Loans, and for other purposes relating to Loans out of the Local Loans Fund. [12th August, 1898.]

* * * * *

III. The works for the purpose of which the Public Works Loan Commissioners may lend in Great Britain under the Public Works Loans Act, 1875, shall include any work for which the managers of asylum districts, or of school districts, are respectively authorized to borrow under the Acts relating to the relief of the poor.

Addition to purposes for which Public Works Loan Commissioners may lend.

38 & 39 Vict. c. 89.

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V. In section eleven of the Public Works Loans Act, 1875 (which fixes the time for repayment of loans), "thirty" shall be substituted for "twenty."

Amendment of 38 & 39 Vict. c. 89, s. 11, as to term for repayment of loans.

VI. This Act may be cited as the Public Works Loans Act, 1898.

Short title.

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# INEBRIATES ACT, 1898.

61 & 62 VICT. CHAP. 60.

An Act to provide for the Treatment of Habitual Inebriates. [12th August, 1898.]

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XXII. Section one of the Poor Removal Act, 1846, shall apply to a person detained in, or absent under licence from, a State inebriate reformatory, as if he were a prisoner in a prison within the meaning of that section.

Application to inebriate reformatories of provisions of 9 & 10 Vict. c. 66.

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Sect. 3. Note.

For the purposes for which and extent to which managers of asylum districts and of school districts may borrow, see the Poor Law Act, 1889 (52 & 53 Vict. c. 56), s. 2, as amended by the Poor Law Act, 1897 (60 & 61 Vict. c. 29).

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Sect. 22. Note.

The operation of this section is that the time during which a person is detained in, or absent under licence from, a State inebriate reformatory is to be excluded in the computation of the year's residence in a parish or union necessary to confer upon such person a status of irremovability by residence.

A similar provision is contained in the Habitual Drunkards Act, 1879 (42 & 43 Vict. c. 19), s. 32.

# LONDON GOVERNMENT ACT, 1899.

## 62 & 63 VICT. CHAP. 14.

An Act to make better provision for Local Government in London. [13th July, 1899.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

*Establishment of Metropolitan Boroughs.*

Establishment of metropolitan boroughs in London.

I. The whole of the administrative county of London, exclusive of the city of London, shall be divided into metropolitan boroughs (in this Act referred to as boroughs), and for that purpose it shall be lawful for Her Majesty by Order in Council, subject to and in accordance with this Act, to form each of the areas mentioned in the first schedule to this Act into a separate borough, subject, nevertheless, to such alteration of area as may be required to give effect to the provisions of this Act, and subject also to such adjustment of boundaries as may appear to Her Majesty in Council expedient for simplification or convenience of administration, and to establish and incorporate a council for each of the boroughs so formed.

Constitution of borough councils.

II.—(1) The council of each borough shall consist of a mayor, aldermen, and councillors. Provided that no woman shall be eligible for any such office.

(2) An Order in Council under this Act shall fix the number of councillors, and fix the number and boundaries of the wards, and shall assign the number of councillors to each ward, that number being divisible by three, and regard being had to the rateable value as well as to the population of the wards.

(3) The number of aldermen shall be one-sixth of the number of councillors, and the total number of aldermen and councillors for each borough shall not exceed twenty.

51 & 52 Vict. c. 41.

(4) Except as otherwise provided by or under this Act, the provisions of the Local Government Act, 1888, with respect to

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Sect. 1. Note.

The metropolis was formed into the administrative county of London by the Local Government Act, 1888, s. 40, and its extent is defined by sect. 100 of that Act.

Sect. 2. Note.

For "rateable value," see sect. 34, *infra*.

Sub-s. (2). Sub-s. (4).

The provisions of the Local Government Act, 1888, here referred to are contained in sects. 2, 75 of that Act.

the chairman of the county council and the county aldermen respectively shall apply to the mayor and aldermen of a metropolitan borough respectively, and for this purpose references in that Act to the chairman of the county council and to county aldermen shall be construed as references to the mayor and aldermen of the borough.

(5) Except as otherwise provided by or under this Act, the law relating to the constitution, election and proceedings of administrative vestries, and to the electors and members thereof, shall apply in the case of the borough councils under this Act and the electors and councillors thereof, and section forty-six of the Local Government Act, 1894, relating to disqualifications shall apply to the offices of mayor and alderman. 56 & 57 Vict. c. 73.

(6) The quorum of the borough council shall be one-third of the whole number of the council.

(7) The mayor and an alderman of a metropolitan borough shall be required to accept office within the same period as is allowed in the case of a councillor.

(8) The Local Government Board may, on request made by a borough council in pursuance of a resolution of the council passed by a majority of two-thirds of the members present and voting at a meeting of the council duly convened for the purpose, provided that such majority is not less than the majority of the whole council, make an order directing that the whole of the councillors shall retire together on the ordinary day of election in every third year, and may on like request rescind any such order.

Date for elections of councillors.

III.—(1) The first elections of all borough councillors under this Act shall be held on the first day of November one thousand nine hundred, or on such later day, as soon as practicable thereafter, as may be fixed by the Lord President of the Council, who shall also fix a corresponding date for the first elections of mayor and aldermen.

(2) The ordinary day of election of borough councillors shall be the first day of November, or if that day is Sunday, then the following day.

(3) The ordinary day of election of the mayor and aldermen shall be the ninth day of November, or if that day is Sunday, then the following day.

(4) The revised lists of voters in each borough shall in each year after the year one thousand nine hundred be printed and signed before the twentieth day of October, and come into operation as the register for the purpose of borough elections on the first day of November.

*Powers of Borough Councils.*

Transfer to borough councils of

IV.—(1) On the appointed day every elective vestry and district board in the county of London shall cease to exist, and,

Sect. 4.

powers from vestries and district boards.

subject to the provisions of this Act and of any scheme made thereunder, their powers and duties, including those under any local Act, shall, as from the appointed day, be transferred to the council for the borough comprising the area within which those powers are exercised, and their property and liabilities shall be transferred to that council, and that council shall be their successors, and the clerk of the council shall be called the town clerk, and shall be the town clerk within the meaning of the Acts relating to the registration of electors.

Provided that in the case of borrowing powers so transferred, if the London County Council refuse their sanction, or do not within six months after application made give their sanction to a loan, or attach conditions to their sanction, an appeal shall lie to the Local Government Board, whose decision shall be final.

(2) Where any of the adoptive Acts is adopted within a borough, the borough council shall be the authority for administering the Act; and where any such Act has been adopted before the appointed day, and is administered by commissioners or a board, a scheme under this Act shall abolish the commissioners or board, and transfer their powers, duties, property, and liabilities to the borough council.

(3) The powers of a borough council shall, save as in this Act mentioned, extend to the whole of their borough.

Provided that any power or duty of the council under any Act, whether general or local, conferring powers in relation to some particular parish or district, or part of a parish or district, shall be exercised and performed by the council either throughout the borough or in a limited part thereof, or shall cease to be exercised and performed, as may be provided by a scheme under this Act, having regard to the object of the Act under which the power or duty arises, and to the nature of any change of area or alteration of boundary made by or under this Act.

(4) Any of the adoptive Acts may be adopted in a metropolitan borough in like manner as in a borough outside London, and not otherwise, and where any of the adoptive Acts adopted before the appointed day does not extend to the whole borough, the Act may be adopted in the rest of the borough in like manner as if it were a separate borough, and the borough council were the council thereof.

Transfer of powers from London County Council.

V.—(1) As from the appointed day the powers and duties of the London County Council under the enactments mentioned in Part One of the second schedule to this Act shall, subject to the conditions mentioned in that schedule, be transferred to each borough council as respects their borough.

(2) As from the appointed day the powers of the London County Council under the enactments mentioned in Part Two of the second schedule to this Act may, subject to the conditions

mentioned in that schedule, be exercised also by each borough council as respects their borough. Sect. 5.

(3) The Local Government Board may, if they think fit, on the application of the London County Council and of the majority of the borough councils, make a provisional order for transferring to all the borough councils any power exerciseable by the county council, or for transferring to the county council any power exerciseable by the borough councils.

(4) The Local Government Board may also, on the joint application of the London County Council and the Common Council of the City of London, make a provisional order transferring any power from the county council to the common council, or from the common council to the county council.

Additional powers and duties of borough councils.

VI.—(1) As from the appointed day the power and duty of maintaining any main road existing at the passing of this Act within a borough shall be transferred to the borough council, and the road shall vest in the borough council and shall cease to be a main road.

(2) Where a highway in a borough is repairable by the London County Council by reason of its being the roadway or footway of a bridge, embankment, or otherwise, the borough council shall, if so required by the county council, undertake the maintenance and repair thereof in consideration of such annual payment by the county council as may from time to time be agreed on, or in default of agreement be finally determined by the Local Government Board, and for the purpose of the undertaking the borough council shall have the same powers and be subject to the same duties and liabilities as if the highway were vested in them.

(3) The power of a borough council to close or stop up a street under section eighty-four of the Metropolis Management Amendment Act, 1862, shall not require the sanction or allowance of the London County Council. Provided that before closing or stopping any such street the borough council shall give notice to the councils of any contiguous boroughs. 25 & 26 Vict. c. 102.

(4) It shall be the duty of each borough council to enforce within their borough the byelaws and regulations for the time being in force with respect to dairies and milk, and with respect to slaughter-houses, knackers' yards, and offensive businesses, and for the purpose of performing this duty the borough council shall in all cases have the same powers of entry as they have in the case of slaughter-houses and knackers' yards, and if the council make default in performing this duty, the provisions of the Public Health (London) Act, 1891, shall apply as if the default were a default under that Act. 54 & 55 Vict. c. 76.

(5) A borough council may, with the consent of the Local Government Board, alienate any land for the time being vested in the council, and the proceeds of the sale of any land sold by

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the council shall be applied in such manner as the Local Government Board sanction towards the discharge of any loan of the council or otherwise for any purpose for which capital may be applied by the council.

(6) A borough council shall have the same powers of promoting and opposing Bills in Parliament, and of prosecuting or defending any legal proceedings necessary for the promotion or protection of the interests of the inhabitants of their borough, as are conferred on borough councils outside London by the Borough Funds Act, 1872, and the provisions of that Act shall extend to the council of a metropolitan borough as if that council were included in the expression "governing body" and the borough were a district in that Act mentioned.

35 & 36 Vict. c. 91.

Expenses incidental to transfer of powers or duties.

VII.—(1) Where any power or duty is transferred from the London County Council to a borough council or from a borough council to the London County Council by or under this Act, the borough council or county council, as the case may be, shall defray as part of their ordinary expenses the expenses of and incidental to the power or duty, but the county council shall contribute to the borough council, or the borough council to the county council, in respect of those expenses, such amount, if any (whether capital or annual), and subject to such conditions, if any, as may—

(*a.*) If the transfer is made by this Act, be agreed on between the councils within six months after the transfer, or in default of agreement be finally determined by the Local Government Board; and

(*b.*) If the transfer is made by a provisional order, be fixed by the order.

Provided that every borough council shall have an opportunity of making a representation to the Local Government Board as to the amount of any contribution under this section to another council, and if the amount is settled by agreement may, within three months from the date at which the agreement is notified to them, appeal against it to the Local Government Board, who may finally determine the amount.

(2) Where the transfer is made by provisional order the amount of contribution from or to the county council may be varied in each case to meet the circumstances of the case.

(3) This section shall apply as if the Common Council of the City of London were the council of a metropolitan borough.

Committees.

55 & 56 Vict. c. 53.

56 & 57 Vict. c. 11.

VIII.—(1) Any committee appointed by a borough council for the purpose of the Public Libraries Acts, 1892 and 1893, may consist partly of persons not members of the council.

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(2) Every committee shall report their proceedings to the council, but, to the extent to which the council so direct, the acts and proceedings of the committee shall not require the approval of the council. Provided that a committee shall not raise money by loan or by rate, or spend any money beyond the sum allowed by the council.

(3) Every borough council shall from time to time appoint a finance committee for regulating and controlling the finance of the council; and no order for payment of any sum, whether on account of capital or income, shall be made by a borough council except in pursuance of a resolution of the council passed on the recommendation of the finance committee; and any costs, debt, or liability exceeding fifty pounds shall not be incurred except upon a resolution of the council passed on an estimate submitted by the finance committee. The notice of the meeting at which any resolution for the payment of any sum by the borough council (otherwise than for ordinary periodical payments) or any resolution for incurring any costs, debt, or liability exceeding fifty pounds will be proposed, shall state the amount of the said sum, costs, debt, or liability, and the purpose for which they are to be paid or incurred. Provided that the foregoing provisions shall not apply to payments made in pursuance of a precept from another authority.

(4) Section fifty-seven of the Local Government Act, 1894, which relates to joint committees, shall, with the substitution of the words Local Government Board for county council therein, apply to borough councils as if they were district councils. 56 & 57 Vict. c. 73.

Payments to and by borough council.

IX.—(1) All payments to and by the borough council shall be made to and by the borough treasurer, and all payments by the council shall, unless made in pursuance of the specific requirement of an Act of Parliament, or of an order of a competent court, be made in pursuance of an order of the council signed by three members of the finance committee present at the meeting of the council, and countersigned by the town clerk, and the same order may include several payments. Moreover, all cheques for payment of monies issued in pursuance of any such order shall be countersigned by the town clerk, or by a deputy approved by the council.

(2) Any such order may be removed into the High Court of Justice by writ of *certiorari*, and may be wholly or partly disallowed or confirmed on motion and hearing with or without costs according to the judgment and discretion of the court.

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Note. Sub-s. (2).

This section is practically identical with sect. 80 (1), (2) of the Local Government Act, 1888 (51 & 52 Vict. c. 41).

Sect. 10. *Rates, Overseers, and Audit.*

Levy of rates.

X.—(1) A scheme under this Act shall provide for all the expenses of a borough council being paid out of the general rate, and for the discontinuance of a separate sewers rate and separate lighting rate, but shall make provision for protecting the interests of owners and occupiers of any hereditament which is exempt from any rate or liable to be assessed thereto at a less amount than other hereditaments.

(2) After the appointed day the general rate and the poor rate shall be assessed, made, and levied together by the borough council as one rate, which shall be termed the general rate, and shall be assessed, made, collected, and levied, as if it were the poor rate, and all enactments applying or referring to the poor rate shall, subject to the provisions of this Act as to audit, be construed as applying or referring also to the general rate.

(3) Where a borough comprises more than one parish, the amount to be raised to meet the expenses of the borough council, or other sums payable as part of those expenses, shall, subject to any provision required for the adjustment of local burdens, be divided between the parishes in proportion to their rateable value.

(4) Where any of the adoptive Acts, or any local or other Act, does not extend to the whole borough, any rate required to meet the expenses incurred under the Act shall, subject to the provisions of any scheme under this Act, be levied together with, and as an additional item of, the general rate over the area to which the Act extends.

Provisions as to overseers and collection of rates.

XI.—(1) After the appointed day the council of each borough shall be the overseers of every parish within their borough, and shall appoint such officers as may be required to assist in the transaction of the business, and shall defray the expenses of and incidental to the performance of the duties, of overseers. Provided that the town clerk of each borough shall have the powers and duties and be subject to the liabilities of overseers with respect to the preparation of lists of voters and of jury lists in the borough, and any document required to be signed by overseers may be signed by the town clerk.

(2) After the appointed day every precept issued by any authority in London for the purpose of obtaining money which

Sect. 10. Note. Sub-s. (1).

The scheme will contain provisions giving effect to the partial or total exemptions of certain kinds of property from rateability to the sewers and lighting rates which were contained in ss. 163—165 of the Metropolis Management Act, 1855 (18 & 19 Vict. c. 120), now repealed by this Act.

Sect. 11. Note. Sub-s. (2).

A precept is sent from time to time to the various boards of guardians in the metropolis by the Local Government Board under

is ultimately to be raised out of a rate within a borough, other than a precept sent to guardians by the Local Government Board or by a body containing representatives elected by the guardians, shall be sent to the council at their office, addressed to the council or to the town clerk. Any such precept, if so sent and addressed, shall be deemed to be personally served on the council, and shall be executed by them. "Precept" in this section includes any order, certificate, warrant, or other document of a like character, and the Local Government Board may settle the form of any precept as so defined. Sect. 11.

(3) After the appointed day all the rates collected in a metropolitan borough from any person by the council shall, as far as is practicable, be levied on one demand note, and the demand note shall be in a form approved by the Local Government Board, and shall state in manner provided in that form—

(*a.*) The rateable value of the premises in respect of which the rate is levied; and

(*b.*) The rate in the pound; and

(*c.*) The period for which the rate is made; and

(*d.*) The several purposes for which the rate is levied; and

(*e.*) The approximate amount in the pound required for each purpose (including, as far as is practicable, the proportionate amount of the estimated costs of and loss in collection); and

(*f.*) Any matter required by section two of the London (Equalization of Rates) Act, 1894, or any other enactment, to be stated in the demand note. 57 & 58 Vict. c. 53.

XII. As between landlord and tenant every tenant who, if this Act had not been passed, would have been entitled to deduct against or to be repaid by his landlord any sum paid by the tenant on account of the sewers rate, shall in like Incidence of sewers rate or its equivalent.

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the Metropolitan Poor Act, 1867 (30 & 31 Vict. c. 6), s. 65, requiring payment of their respective contributions to the metropolitan common poor fund. Sect. 11. Note. Sub-s. (2).

Precepts are issued to guardians by the managers of the metropolitan asylums district, and by the managers of a county asylum district.

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This section preserves the rights of the tenant as to the deduction of sewers rates under s. 169 of the Metropolis Management Act, 1855 (18 & 19 Vict. c. 120), which is repealed by this Act. Sect. 12. Note.

A sewers rate is payable by the landlord, unless there is an agreement between the landlord and the tenant to the contrary, and if paid by the tenant may be deducted by him from the rent (*Smith* v. *Humble*, 15 C. B. 321; *Bennett* v. *Womack*, 7 B. & C. 627; 1 M. & R. 644).

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manner be entitled to deduct against or to be repaid by his landlord such portion of the general rate as represents the sewers rate.

Assessment committees.

32 & 33 Vict. c. 67.

XIII. Where the whole of a poor law union is within one borough, the assessment committee shall, notwithstanding anything in section five of the Valuation (Metropolis) Act, 1869, be appointed by the borough council instead of by the board of guardians, and where the borough comprises the whole of two or more unions, the council shall appoint only one assessment committee for those unions, and where the council appoint the assessment committee the town clerk shall act as the clerk to that committee.

Audit of accounts.

XIV. After the appointed day the accounts of the council of every metropolitan borough, and of any committee appointed by the council, and of their officers, including the accounts relating to the making, levy, and collection of any rate made by the council, shall be made up and audited in like manner and subject to the same provisions as the accounts of the London County Council, and the enactments relating to the audit of those accounts and to all matters incidental thereto and consequential thereon, including the penal provisions, shall apply accordingly.

*Orders and Schemes.*

Appointment of commissioners and preparation of orders and schemes.

XV.—(1) It shall be lawful for Her Majesty in Council to refer to a committee of the Privy Council the appointment of commissioners to prepare such orders and schemes as are required for carrying this Act into effect, and the committee may settle the orders and schemes so prepared, and may employ such persons as they may deem necessary for the purposes of this Act.

(2) Before any Order in Council forming an area into a borough is made under this Act, a draft thereof shall be laid before each House of Parliament for a period of not less than thirty days during the session of Parliament, and if either of those Houses before the expiration of those thirty days presents an address to Her Majesty against the draft or any part thereof, no further proceedings shall be taken thereon, without prejudice to the making of any new draft order.

(3) The commissioners shall for the execution of their duties

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Sect. 14. Note.

The accounts of the London County Council are audited by the district auditors in pursuance of the Local Government Act, 1888 (51 & 52 Vict. c. 41), s. 71, which incorporates the audit sections of the Public Health Act, 1875.

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Sect. 15. Note. Sub-s. (3).

For the powers of inspectors of the Local Government Board, see the Poor Law Board Act, 1847 (10 & 11 Vict. c. 109), ss. 20, 21.

under this Act have the like powers as inspectors of the Local Government Board. Sect. 15.

(4) Any expenses incurred by the committee under this Act shall, to the amount certified by the Treasury, be paid by the London County Council out of the county fund.

XVI.—(1) A scheme under this Act may make provision— Provisions to be made by scheme.

(*a.*) For any matters which under this Act are to be regulated by scheme; and

(*b.*) For any of the purposes, except police, for which a scheme may be made under Part Eleven of the Municipal Corporations Act, 1882, so far as those purposes are consistent with this Act; and 45 & 46 Vict. c. 50.

(*c.*) For anything which may be done with respect to a parish by an order under section fifty-seven of the Local Government Act, 1888, or may be done under section thirty-three of the Local Government Act, 1894, so, however, that parishes in different unions shall not be united except with the approval of the Local Government Board; and 51 & 52 Vict. c. 41. 56 & 57 Vict. c. 73.

(*d.*) For such adjustments as may be required for carrying into effect any of the provisions of this Act or for preventing any injustice with respect to the incidence of any rate or the discharge of any liability or otherwise, and in particular for such adjustments as may be required for the efficient maintenance of any libraries, baths, or washhouses, which have been maintained under the provisions of any of the adoptive Acts; and

(*e.*) For preserving, so far as may appear necessary or expedient, any right, power, exemption, or immunity heretofore exercised or enjoyed in respect of property belonging to or occupied by the Crown or any Government department; and

(*f.*) For making such alterations in the boundaries of the electoral divisions for the purpose of school board elections as may be rendered necessary by any alteration in the area of the county of London; and

(*g.*) For repealing or modifying any local Act other than the London Building Act, 1894; and 57 & 58 Vict. ch. ccxiii.

(*h.*) For carrying into effect this Act or any Order in Council made thereunder;

and may contain any incidental, consequential, or supplemental provisions, which may appear to be necessary or proper for the purposes of the scheme.

(2) In making adjustments by a scheme under this section, regard shall be had to any composition, contribution, or

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exemption, whether statutory or otherwise, which has heretofore existed in regard to any portion of any area dealt with under the scheme.

45 & 46 Vict. c. 50. 48 & 49 Vict. c. 38.

(3) The provisions of the Municipal Corporations Act, 1882, as amended by the School Boards Act, 1885, with respect to a scheme under Part Eleven of the first-mentioned Act, shall apply in the case of any scheme under this Act with the necessary modifications, and any governors or trustees of the poor or other similar body under a local Act, shall be deemed, but the London County Council shall not be deemed, to be a local authority within the meaning of those provisions. There shall also be deemed to be local authorities within the meaning of the said provisions—

(*a.*) The mayor, commonalty, and citizens, and the court of aldermen of the city of London, so far as relates to any powers exerciseable by them or by officers appointed by them respectively within the ancient borough of Southwark ; and

(*b.*) The dean and chapter of the collegiate church of St. Peter, Westminster, so far as relates to any powers of local government exerciseable by them or their officers within the borough of Westminster, and the court of burgesses of the ancient city of Westminster.

(4) Provided that notification in the London Gazette, and in such other manner as the committee of council may direct, of a draft scheme having been prepared or of a scheme having been settled, and of the place where copies of it can be inspected and obtained, shall be substituted for publication of the draft scheme or scheme in the London Gazette or in the manner required by the seventh schedule to the Municipal Corporations Act, 1882.

45 & 46 Vict. c. 50.

Rules as to boroughs and parishes.

XVII.—(1) Every part of the administrative county of London outside the city shall be situate in some borough and some parish, and a parish shall not be situate in more than one borough, or partly in a borough and partly in the city.

(2) An Order in Council under this Act may divide a parish or place into parts for the purpose of giving effect to this section or of constituting a satisfactory area for a borough, and, unless otherwise provided by the order or by a scheme under this Act, each part shall be a separate parish.

Detached parts of parishes.

XVIII.—(1) Every part of a parish in London which is wholly detached from the principal part of the parish shall by an Order in Council under this Act be annexed to or divided between any of the boroughs which it adjoins, and be either constituted a separate parish or be annexed to or divided

between any of the parishes which it adjoins, so, however, that the provisions of this Act with respect to a parish not being situate in more than one borough shall be observed. Sect. 18.

Provided that if the commissioners under this Act make a special report to Parliament that by reason of anything done under any of the adoptive Acts, or for any other exceptional reason, it is impracticable to deal with a detached part of a parish in manner required by the foregoing provisions of this section, those provisions shall not apply.

And further provided that the foregoing provisions of this section shall not apply to the hamlet of Knightsbridge.

(2) Where the county of London surrounds a detached part of a parish in another county, the foregoing provisions shall apply, and the detached part shall for all purposes become part of the county of London and of the appropriate county electoral division.

(3) Where a detached part so becomes part of the county of London, and is part of any urban district the remainder of which adjoins the county of London, the whole of the district may, by Order in Council, if it seems expedient after considering all the circumstances of the case, be added to and form for all purposes part of the county of London and of the appropriate borough.

(4) Where a detached part of a parish in the county of London is wholly surrounded by any other county, the detached part shall for all purposes become part of that county, and where a detached part as aforesaid is surrounded by more than one county, that detached part shall become part of such county as shall be determined by Order in Council under this Act, and every such detached part shall, by Order in Council, be either constituted a separate parish or annexed to or divided between any parish or parishes which it adjoins, and be added to the appropriate county district and county electoral division.

(5) Nothing in this section shall apply to the city of London.

(6) The London County Council and the council of any adjoining county shall be entitled to be heard on any alteration or proposed alteration of the area of the county of London.

XIX.—(1) A scheme under this Act shall provide for placing Woolwich under the general law applying to metropolitan Application of Act to Woolwich.

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Note.

By the Metropolis Management Act, 1855 (18 & 19 Vict. c. 120), s. 233, Woolwich, which was created a local board district by provisional order, was brought within the jurisdiction of the Metropolitan Board of Works for certain purposes. The Public Health Act, 1875, did not apply to Woolwich, which for the purposes of that Act was included in the metropolis by sect. 4 of that Act; but some of its provisions were applied to it by the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), s. 102.

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boroughs, and for the repeal of the application thereto of the provisions of the Public Health Acts and other enactments not applying to London, and for the application thereto of the Metropolis Management Acts, 1855 to 1893, and other enactments applying to London.

(2) Subject to the provisions of any such scheme, this Act shall apply to Woolwich in like manner as if the local board of health thereof were an administrative vestry.

(3) Nothing in this Act shall prevent the council of any borough consisting of or comprising Woolwich from continuing to make any contribution for the purpose of technical education hitherto made by any local authority, or from exercising any existing powers of carrying on a market.

Special provision as to Penge.

XX.—(1) An Order in Council under this Act may either annex Penge to the borough of Lewisham or to the borough of Camberwell, or separate it from the county of London and make it form part of the county of Surrey or of the county of Kent, and if it is so separated shall provide for constituting it an urban district, or for adding it to an adjoining county borough or urban district, and if necessary shall determine the county electoral division to which it is to belong.

(2) A scheme under this Act shall make such provision as may be necessary for the apportionment and transfer of property and liabilities, and for the repeal of the application to Penge of the Metropolis Management Acts, 1855 to 1893, and any other enactments applying to London, and for the application thereto of the Public Health Acts and other enactments not applying to London.

Provision as to Kensington Palace.

XXI. An Order in Council under this Act may detach Kensington Palace from the borough of Westminster and attach it to the borough of Kensington.

Provision as to the Temples.

XXII. The places known as the Inner and Middle Temples shall for the purposes of this Act be deemed to be within the city of London.

*Supplemental.*

Church affairs and charities.

XXIII.—(1) Nothing in this Act shall transfer to a borough council any powers or duties of a vestry which relate to the

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Note.

The Inner and Middle Temples pay contributions to the City of London Union, and the assessment committee of that union acts for them in pursuance of the Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), s. 59, and the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 43.

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Note. Sub-s. (1).

By the Metropolis Management Amendment Act, 1856 (19 & 20 Vict. c. 112), s. 3, the powers, &c., of the old vestries relating to the

affairs of the Church or any interest of a vestry in any church property, or shall make any incumbent or churchwarden an *ex-officio* member of a borough council, and a scheme under this Act shall provide for vesting any such powers and duties in the inhabitants of some parish or ecclesiastical district, and for vesting any such interest in the incumbent and churchwardens or one or some of them, and for the collection of any rate connected with a church or an incumbent by the churchwardens, or by officers appointed for the purpose. Sect. 23.

(2) Provided that any building which belongs to any body whose powers and duties are transferred to any borough council by or under this Act, and which has been erected wholly or partly on a churchyard shall, with its appurtenances, be transferred to and vest in the council, subject to such right of use for Church purposes as may be given by the scheme.

(3) As from the appointed day, the churchwardens of every parish within a metropolitan borough shall cease to be overseers, and references in any Act to the churchwardens and overseers of any such parish shall, except so far as those references relate to the affairs of the Church, be construed as references to the council of the borough comprising the parish, and the legal interest in all property vested either in the overseers or churchwardens and overseers of any such parish (other than property connected with the affairs of the Church or held for an ecclesiastical charity within the meaning of the Local Government Act, 1894), shall, subject to the provisions of any scheme under this Act, vest in the borough council. 56 & 57 Vict. c. 73.

(4) Provision shall be made by scheme under this Act for substituting nominees of the borough council for overseers as trustees of any charity, due regard being had to the area benefited by the charity.

(5) The Charity Commissioners shall, for the purposes of this Act, have the like powers with respect to charities, subject to the like appeal, as they have under and for the purposes of the Local Government Act, 1894.

(6) Nothing in this Act shall affect the right to the benefit of any charity, or shall alter or confer any power of altering the defined charitable purposes (if any) to which any property is by law applicable at the passing of this Act.

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Sect. 23. Note.

affairs of the Church were transferred to the vestries created by the Metropolis Management Act, 1855, and continued to be exercised by them until the issuing of a scheme under this Act.

Sub-s. (1).

"Ecclesiastical charity" is defined in sect. 75 of the Local Government Act, 1894.

Sub-s. (3).

See sect. 70 (2) of the Local Government Act, 1894, for the powers of the Charity Commissioners under that Act.

Sub-s. (5).

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Mayors of boroughs as justices of the peace.

XXIV. With respect to a mayor of a borough being by virtue of his office a justice of the peace—

(1) He shall become a justice of the peace for the county of London;

(2) He shall not be disqualified by reason of being a solicitor practising or carrying on business in the county of London or city of London;

(3) He shall not practise as a solicitor before any justices of the county of London.

Deputy town clerk.

XXV. In case of the illness or absence of the town clerk, the borough council may appoint a deputy town clerk to hold office during their pleasure, and all things required or authorized by law to be done by or to the town clerk may be done by or to the deputy town clerk, and no defect in the appointment of a deputy shall invalidate his acts.

Alteration of wards.

XXVI.—(1) Whenever the Local Government Board is satisfied that a *primâ facie* case is made out for a proposal for the alteration of the number of wards of a metropolitan borough, or of the boundaries of any ward, or of the apportionment of the members of the council among the wards, the Local Government Board may cause such inquiry to be made and such notices to be given as they may think expedient; and if satisfied that the proposal is desirable, may make an order accordingly.

(2) Notice of the provisions of the order shall be given, and copies thereof shall be supplied, in such manner as the Local Government Board may direct.

(3) The expenses of and incidental to the making of the order shall be paid by the borough council.

Provisions as to names, first elections, &c.

XXVII.—(1) An Order in Council under this Act shall—

(*a.*) Give each of the metropolitan boroughs an appropriate name; and

(*b.*) Fix the days, years, and times for the retirement of the first aldermen and councillors; and

(*c.*) Give such directions as to the first meeting of the borough councils, and make such other temporary modifications of the provisions of this Act, as may appear to Her Majesty to be necessary or proper for making those provisions applicable in the case of the first constitution of a borough council.

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Sect. 26. Note. Sub-s. (1).

In boroughs outside the metropolis division into wards is effected by Order in Council under sect. 30 of the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50); and in other urban or rural districts by the county councils under sect. 57 of the Local Government Act, 1888, or sect. 60 of the Local Government Act, 1894.

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(2) An Order in Council under this Act may make such provisions as appear necessary for adapting the enactments relating to the registration of electors to the provisions of this Act with respect to the powers and duties of the town clerk and overseers, and in particular for applying, so far as appears necessary, the law regulating the registration of electors in a municipal borough outside London.

(3) An Order in Council under this Act shall provide for the revised lists of voters in the administrative county of London outside the city being, in the year one thousand nine hundred, printed and signed before the twentieth day of October, and coming into operation as the register for the purpose of borough elections on the first day of November, and may provide for such adjustment of the lists of voters and registers with respect to any alteration under this Act of parish boundaries as may appear required for the purpose of those elections.

(4) On the day on which the first borough councillors elected under this Act come into office, the persons who are then members of elective vestries or district boards, and the auditors and overseers of any place to be included in a borough, shall cease to hold office, and until that day the persons who are at the passing of this Act members of elective vestries and district boards, and auditors and overseers, shall continue in office as if the term of office for which they were elected or appointed expired on that day, and, except for the purpose of filling casual vacancies, no further election or appointment shall be held or made.

Provisional orders and proceedings of Local Government Board.

38 & 39 Vict. c. 55.

XXVIII.—(1) Sections two hundred and ninety-seven and two hundred and ninety-eight of the Public Health Act, 1875, shall apply to any provisional order made under this Act, as if it were a provisional order made under that Act, except that the expenses incidental to the provisional order shall be defrayed by the councils concerned in such proportions as the Local Government Board may determine.

51 & 52 Vict. c. 41.

(2) Sub-sections one and five of section eighty-seven of the Local Government Act, 1888, shall apply to any proceedings of the Local Government Board under or for the purposes of this Act.

(3) Where the Local Government Board are authorized by this Act to determine any matter, it shall be at their option to determine the matter as arbitrators or otherwise, and, if they elect to determine the matter as arbitrators, the provisions of

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Sect. 28. Note.

The provisions of this sub-section are no doubt intended to meet the objections which were raised in *Kent County Council* v. *Sandgate Local Board*, [1895] 2 Q. B. 43; 64 L. J. Q. B. 502; 72 L. T. 725; 43 W. R. 652; 59 J. P. 455. (See the Local Government (Determination of Differences) Act, 1896 (59 & 60 Vict. c. 9).)

Sect. 28.

31 & 32 Vict. c. 119.

the Regulation of Railways Act, 1868, respecting arbitrations by the Board of Trade, and the enactments amending those provisions, shall apply as if they were herein re-enacted and in terms made applicable to the Local Government Board and the determination of matters under this Act.

Proceedings in case of doubts as to transfer of powers.

XXIX. If any question arises, or is about to arise, as to whether any power, duty, or liability is or is not transferred by or under this Act to the council of any metropolitan borough, or any property is or is not vested in any such council, that question, without prejudice to any other mode of trying it, may, on the application of the council, be submitted for decision to the High Court in such summary manner as, subject to any rules of court, may be directed by the court; and the court, after hearing such parties and taking such evidence (if any) as it thinks just, shall decide the question.

Existing officers.

XXX.—(1) Where the powers and duties of any authority are transferred by or under this Act to any borough council, the existing officers of that authority shall be transferred to and become the officers of that council. Any assistant overseers, rate collectors, and other officers employed in the performance of duties of overseers within a borough shall also be transferred to and become officers of the council for that borough. The council may abolish the office of any such officer whose office they may deem unnecessary; but any officer required to perform duties such as are not analogous, or which are an unreasonable addition to those which he is at present required to perform, may relinquish his office, and any officer so relinquishing his office, or whose office is abolished, shall be entitled to compensation under this Act.

56 & 57 Vict. c. 73.

(2) Sub-sections four and seven of section eighty-one of the Local Government Act, 1894, shall apply to the existing officers affected by this Act as if references in those sub-sections to the district council were references to the borough council, and all expenses incurred by the borough council in pursuance of those sub-sections shall be paid out of the general rate: Provided that the borough council may, if it thinks fit, take into account continuous service under any authority or authorities to which this Act refers, in order to calculate the total period of service of any officer entitled to compensation under this Act.

(3) For the purposes of this section "existing officers" shall mean officers holding office on the twenty-fourth day of February one thousand eight hundred and ninety-nine and also at the passing of this Act.

(4) A scheme under this Act may make such provisions as may appear necessary for carrying this section into effect, and if necessary for determining the authority to whom any existing officer is to be transferred, and for applying the provisions of this section to any officer who suffers pecuniary loss by reason

of anything in or done under this Act, although he is not transferred to a borough council, and although he is not an officer of an authority whose powers and duties are transferred by or under this Act, and for determining in any such case the fund out of which compensation is to be paid.

Construction of Acts and savings.

XXXI.—(1) Where any Act passed before the passing of this Act contains expressions referring to a borough, those expressions shall not be construed as referring to a metropolitan borough created by this Act unless applied thereto by or under the provisions of this Act or of any subsequent enactment.

(2) Any enactment in any Act, whether general or local, referring to an authority whose powers or duties are transferred by or under this Act to a borough council shall be construed with the necessary modifications, including the substitution of the borough council for that authority and of the borough for the area of that authority.

(3) Nothing in or done under this Act shall be construed as altering the limits of any Parliamentary borough or Parliamentary county.

(4) Except so far as the areas of parishes and sanitary districts are altered by or under this Act, nothing in this Act shall affect the London (Equalization of Rates) Act, 1894.

57 & 58 Vict. c. 53.

(5) Nothing in this Act, or in any order or scheme under this Act, shall abridge, alter, or affect the powers, rights, duties, or jurisdiction of the School Board for London over the area which for the time being constitutes the administrative county of London.

Borough councils not to alienate open spaces.

XXXII. Nothing in this Act shall authorize any borough council to alienate any recreation ground or other open space dedicated to the use of the public, or any land held on trusts which prohibit building thereon.

Appointed day and transitory provisions.

XXXIII.—(1) For the purposes of this Act the appointed day shall be the day on which the members of the borough councils first elected under this Act come into office, or such other day not being more than six months earlier or later, as the Lord President of the Council may appoint, either generally, or with reference to any particular provision of this Act, and different days may be appointed for different purposes and different provisions of this Act, whether contained in the same section or in different sections, or for different boroughs.

(2) Subject to the provisions of any scheme under this Act, and to such adaptations as may be made by Order in Council, sections eighty-five to eighty-eight of the Local Government Act, 1894 (which contain transitory provisions), shall apply in the case of boroughs and borough councils under this Act.

56 & 57 Vict. c. 73.

Sect. 34.

Definitions.

XXXIV. In this Act, unless the context otherwise requires,—

The expression "administrative vestry" means a vestry having the powers of a vestry elected for a parish specified in schedule (A.) to the Metropolis Management Act, 1855; and the expression "elective vestry" means any vestry elected under the Metropolis Management Act, 1855:

18 & 19 Vict. c. 120.

The expression "rateable value" shall include the value of Government property upon which a contribution in lieu of rates is paid:

The expressions "powers," "duties," "property," "liabilities," and "powers, duties, and liabilities," have respectively the same meanings as in the Local Government Act, 1888:

51 & 52 Vict. c. 41.

The expression "adoptive Acts" means the Baths and Washhouses Acts, 1846 to 1896, the Burial Acts, 1852 to 1885, and the Public Libraries Acts, 1892 and 1893:

The expression "local Act" includes a provisional order confirmed by an Act, and the Act confirming the order; and the expression "enactment" includes a provision of any such order.

Short title and repeal.

XXXV.—(1) This Act may be cited as the London Government Act, 1899.

(2) As from the appointed day the enactments mentioned in the third schedule to this Act shall be repealed to the extent in the third column of that schedule mentioned.

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## SCHEDULES.

Section 1.

### FIRST SCHEDULE.

*Areas which are to be Boroughs.*

The parishes of—

| | |
|---|---|
| Battersea. | Islington. |
| Bethnal Green. | Kensington. |
| Camberwell. | Lambeth. |
| Chelsea. | Paddington. |
| Fulham. | St. Marylebone. |
| Hackney. | St. Pancras. |
| Hammersmith. | Shoreditch. |
| Hampstead. | |

The area consisting of the parishes of Mile End Old Town and St. George's-in-the-East and the districts of the Limehouse and Whitechapel Boards of Works including the Tower of London and the liberties thereof.

The district of the Poplar Board of Works.

The district of the Wandsworth Board of Works.

Schedule I

The area consisting of the parishes of St. George the Martyr, Christchurch, Southwark, St. Saviour, Southwark, and Newington.

The area consisting of the parishes of Rotherhithe, Bermondsey, Horselydown, and St. Olave and St. Thomas, Southwark.

The area of the Parliamentary division of Holborn.

The area consisting of the Parliamentary divisions of East and Central Finsbury.

The area of the Parliamentary borough of Deptford.

The area of the Parliamentary borough of Greenwich.

The area of the Parliamentary borough of Lewisham.

The area of the Parliamentary borough of Woolwich.

The area of the ancient Parliamentary borough of Westminster, comprising the parishes of St. Margaret and St. John, Westminster, the parish of St. George, Hanover Square, the parish of St. James, Westminster, the parish of St. Martin-in-the-Fields and the district of the Strand Board of Works, and including the Close of the Collegiate Church of St. Peter, Westminster, and the Liberty of the Rolls.

The area consisting of the parish of Stoke Newington and of the urban district of South Hornsey, or so much thereof as may be incorporated with the county of London under this Act.

## SECOND SCHEDULE.

### PART I.

Section 5 (1).

*Minor Powers and Duties to be Transferred from County Council.*

| Powers and Duties transferred. | Conditions of Transfer. |
|---|---|
| Power under section eighty-four of the London Building Act, 1894, to license the setting up of wooden structures, and power to take proceedings for default in obtaining or observing the conditions of a licence under that section. | |
| Power under section one hundred and thirty-four of the London Building Act, 1894, in relation to the removal of unauthorized sky signs. | Subject in case of default to the provisions of the Public Health (London) Act, 1891, as if the default were a default under that Act. |

Schedule II.

PART I. (*continued*).

| Powers and Duties transferred. | Conditions of Transfer. |
|---|---|
| Powers under section one hundred and ninety-nine of the London Building Act, 1894, which section relates to the removal of obstructions in streets. | |
| Power under section twenty-eight of the Public Health (London) Act, 1891, of registering dairymen. | Subject to the power of the London County Council to make bye-laws, and in case of default to the provisions of the Public Health (London) Act, 1891, as if the default were a default under that Act. |

## PART II.

Section 5 (2). *Powers of County Council to be exercised also by Borough Councils.*

| | Powers exerciseable. | Conditions of Exercise. |
|---|---|---|
| 57 & 58 Vict. c. cxiii. | Powers under section one hundred and seventy of the London Building Act, 1894, which section relates to the demolition of buildings in case of the conviction for an offence against the Act, or byelaws made under it. | The power to be exercised only where the borough council have obtained the conviction. |
| | Power to take proceedings in respect of timber or other articles piled, stacked, or stored in contravention of section one hundred and ninety-seven or section two hundred (11) (*h*) of the London Building Act, 1894. | The power to be exercised only within the borough. |
| 34 & 35 Vict. c. 113. | Powers under sections seventeen to twenty-five of the Metropolis Water Act, 1871, with respect to regulations of water companies. | The power to be exercised only with respect to a water company supplying any part of the borough. |
| 51 & 52 Vict. c. 25. | Power under section seven of the Railway and Canal Traffic Act, 1888, to make or appear in opposition to certain complaints. | |
| 51 & 52 Vict. c. 41. | Powers under section sixty-five of the Local Government Act, 1888, which section relates to the acquisition of land. | The power to be exercised only where the land is required for the purpose of any of the powers or duties of the borough council. |

PART II. (*continued*). Schedule II.

| Powers exerciseable. | Conditions of Exercise. | |
|---|---|---|
| Power to adopt Part III. of the Housing of the Working Classes Act, 1890. | The power to be exercised only within the borough. | 53 & 54 Vict. c. 70. |
| Power to make byelaws under section twenty-three of the Municipal Corporations Act, 1882, as applied by section sixteen of the Local Government Act, 1888. | The byelaws to be in force only within the borough and not to be inconsistent with any byelaws made by the county council. | 45 & 46 Vict. c. 50.<br>51 & 52 Vict. c. 41. |

## THIRD SCHEDULE.

*Enactments Repealed.* Section 35 (2).

| Session and Chapter. | Short Title. | Extent of Repeal. |
|---|---|---|
| 6 & 7 Vict. c. 18 . . | The Parliamentary Voters (Registration) Act, 1843. | In section fifty-six, the words "or to the town clerk of the borough of Southwark" and the words "and in regard to the borough of Southwark the high bailiff of the said borough." |
| 18 & 19 Vict. c. 120 . | The Metropolis Management Act, 1855. | Sections two and three.<br>Section five.<br>Section seven.<br>Section eight, from the beginning to "shall be elected and," and the words "with such other persons as herein-before mentioned."<br>Sections eleven and twelve.<br>Section twenty-eight to "every such meeting."<br>Section twenty-nine.<br>Sections thirty-one to forty-two.<br>Sections fifty-five and fifty-six.<br>Sections fifty-seven, fifty-eight, sixty, sixty-one and sixty-six, so far as they relate to district boards and their districts, and section fifty-eight, from "Provided always" to the end of the section.<br>Section ninety-one, from "save as regards" to "any of the said Acts; and." |

Schedule III.

THIRD SCHEDULE (*continued*).

| Session and Chapter. | Short Title. | Extent of Repeal. |
|---|---|---|
| 18 & 19 Vict. c. 120—*cont.* | The Metropolis Management Act, 1855—*cont.* | Section one hundred and fifty-four, from "may sell and dispose of any land" to "just; and any such board or vestry," except in so far as it applies to the Metropolitan Board of Works.<br>Section one hundred and fifty-eight, from "but every such vestry."<br>Sections one hundred and sixty-one to one hundred and sixty-five.<br>Sections one hundred and sixty-six to one hundred and sixty-nine.<br>Sections one hundred and seventy-two to one hundred and seventy-four.<br>Sections one hundred and seventy-five to one hundred and seventy-nine.<br>Sections one hundred and ninety-two to one hundred and ninety-seven.<br>In section one hundred and ninety-eight, the words "the said account in abstract" to "printed therewith," and the words "account in abstract, statement, and" wherever they occur.<br>In section one hundred and ninety-nine, the words "according to the provisions of this Act."<br>Section two hundred and thirty-seven, from "nor shall such parts" to "cleansing."<br>Section two hundred and thirty-eight. |
| 25 & 26 Vict. c. 102 . | The Metropolis Management Amendment Act, 1862. | In section eight, the words "and the precepts for obtaining payment of money required by the board for that purpose."<br>Sections nine to twelve.<br>Section fourteen.<br>Section fifteen, so far as it relates to vestries and district boards.<br>Section sixteen. |

THIRD SCHEDULE (*continued*). **Schedule III.**

| Session and Chapter. | Short Title. | Extent of Repeal. |
|---|---|---|
| 25 & 26 Vict. c. 102—*cont.* | The Metropolis Management Amendment Act, 1862—*cont.* | Section thirty-seven, so far as it relates to district boards.<br>Section thirty-eight.<br>Section forty.<br>Section forty-one.<br>In section fifty-six, the words "out of the sewers rate to be levied in their parish or district."<br>In section eighty-four, the words "with the previous sanction of the Metropolitan Board of Works" and the words "allowed by the Metropolitan Board."<br>The forms of precept in schedule (C.). |
| 48 & 49 Vict. c. 23 . | The Redistribution of Seats Act, 1885. | In section twelve the words "and also the town clerk for the new borough within the meaning of the Registration Acts." |
| 54 & 55 Vict. c. 76 . | The Public Health (London) Act, 1891. | Sections one hundred and two and one hundred and forty, and the second schedule. |
| 55 & 56 Vict. c. 53 . | The Public Libraries Act, 1892. | Section twenty-two. |
| 56 & 57 Vict. c. 73 . | The Local Government Act, 1894. | In section thirty-one, the words "the local board of Woolwich and"; the words "and the auditors for parishes elected under those Acts, and so far as respects the qualification of persons to be elected as if members of the district boards under the said Acts," and the words "and no person shall *ex-officio* be chairman of any of the said vestries"; and subsection (2).<br>At the end of section forty-six, the words "and in the case of London auditors as if they were members of a district council."<br>In section forty-eight, subsection (4), the words |

Schedule III. THIRD SCHEDULE (*continued*).

| Session and Chapter. | Short Title. | Extent of Repeal. |
|---|---|---|
| 56 & 57 Vict. c. 73—*cont.* | The Local Government Act, 1894—*cont.* | "and of members of the local board of Woolwich"; and in subsection (5), the words "local board or" and "or auditor." |
| 56 & 57 Vict. c. ccxxi. | The London County Council (General Powers) Act, 1893. | Section fifteen. |
| 58 & 59 Vict. c. cxxvii. | The London County Council (General Powers) Act, 1895. | Section forty-two. |

# TITHE RENT-CHARGE (RATES) ACT, 1899.

62 & 63 VICT. CHAP. 17.

An Act to amend the Law with respect to the Payment of Rates on Tithe Rent-charge attached to a Benefice.

[1st August, 1899.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Exemption of owner of tithe rent-charge attached to a benefice from one-half of rates to which Act applies.

I. The owner of tithe rent-charge attached to a benefice shall be liable to pay only one-half of the amount of any rate to which this Act applies, which is assessed on him as owner of that tithe rent-charge, and the remaining one-half shall, on demand being made by the collector of the rate on the surveyor of taxes for the district be paid by the Commissioners of Inland Revenue out of the sums payable by them to the local taxation account, on account of the estate duty grant.

Interpretation.

57 & 58 Vict. c. 30.

II.—(1) In this Act, unless the context otherwise requires—

(*a.*) The expression "estate duty grant" means the grant made under section nineteen of the Finance Act, 1894, in substitution for the probate duty grant:

(*b.*) The expression "benefice" includes all rectories with cure of souls, vicarages, perpetual curacies, endowed public chapels and parochial chapelries, and chapelries or districts belonging or reputed to belong, or annexed, or reputed to be annexed, to any church or chapel, and districts formed for ecclesiastical purposes by virtue of statutory authority, and includes benefices in the patronage of the Crown or of the Duchy of Cornwall:

(c.) The expressions "owner of tithe rent-charge" and "tithe rent-charge" have the same meanings respectively as in the Tithe Act, 1891. Sect. 2. 54 Vict. c. 8.

(2) This Act shall apply in the case of any person liable to pay rates in respect of any payment in lieu of tithe as in the case of the owner of tithe rent-charge.

III. This Act may be cited as the Tithe Rent-charge (Rates) Act, 1899. Short title.

IV. This Act shall apply to every rate as defined by section nine of the Agricultural Rates Act, 1896 (except any rate which the owner of tithe rent-charge is liable, as compared with the occupier of buildings, to be assessed to or to pay in the proportion of one-half or less than one-half), which is made after the fifteenth day of September one thousand eight hundred and ninety-nine, and during the continuance of the said Agricultural Rates Act, 1896. Application and duration. 59 & 60 Vict. c. 16.

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# COMMONS ACT, 1899.

## 62 & 63 VICT. CHAP. 30.

An Act to amend the Inclosure Acts, 1845 to 1882, and the Law relating to Commons and Open Spaces.

[9th August, 1899.]

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### PART II.

*Miscellaneous.*

XVI.—(1) Surplus rents arising from field gardens may, in addition to the purposes for which they are now applicable, be Surplus rents from field gardens and recreation grounds. Sect. 4. Note.

By the Agricultural Rates Act, 1896, &c., Continuance Act, 1901 (1 Edw. 7, c. 13), the period of the continuance of the Agricultural Rates Act, 1896, is extended until the 31st March, 1906, both for the purposes of that Act and of this Act.

By the Public Health Act, 1875 (38 & 39 Vict. c. 55), ss. 211 and 230, owners of tithes or tithe rent-charges are to be assessed in respect of the same in the proportion of one fourth part only of the net annual value thereof towards any general district rate, or any separate rate levied for special expenses of a rural district council respectively. By the Lighting and Watching Act, 1833 (3 & 4 Will. 4, c. 90), s. 33, owners and occupiers of houses, buildings, and property (other than land) are to be rated at and pay a rate in the pound three times greater than that at which owners and occupiers of land shall be rated at and pay for the purposes of that Act; and by the Tithe Rating Act, 1851 (14 & 15 Vict. c. 50), s. 1, tithes and tithe rent-charges are to be assessed under the Lighting and Watching Act, 1833, as and in the same proportion of their annual value as land. 62 & 63 Vict. c. 30.

The provisions as to the application of surplus rents of recreation grounds and field gardens are contained in the Commons Act, 1876 (39 & 40 Vict. c. 56), s. 27, and in the Commons Act, 1879 (42 & 43 Vict. c. 37). Sect. 16. Note.

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applied for any of the purposes for which surplus rents arising from recreation grounds may be applied.

(2) Surplus rents arising from any field garden, or recreation ground may be applied towards the redemption of any land tax, tithe rent-charge, or other charge on the garden or ground.

* * * * *

Power to modify provisions as to recreation grounds, &c.

XVIII. Any provisions with respect to allotments for recreation grounds, field gardens, or other public or parochial purposes contained in any Act relating to inclosure or in any award or order made in pursuance thereof, and any provisions with respect to the management of any such allotments contained in any such Act, order, or award, may, on the application of any district or parish council interested in any such allotment, be dealt with by a scheme of the Charity Commissioners in the exercise of their ordinary jurisdiction, as if those provisions had been established by the founder in the case of a charity having a founder.

Amendment of 8 & 9 Vict. c. 118.

XIX. Section one hundred and fifty of the Inclosure Act, 1845, shall have effect as if "two successive weeks" were therein inserted instead of "three successive weeks," and as if "one month" were therein inserted instead of "three calendar months."

* * * * *

Restrictions on inclosures under scheduled Acts.

XXII.—(1) A grant or inclosure of common purporting to be made under the general authority of any of the Acts mentioned in the first schedule hereto or any Act incorporating the same, or any provisions thereof, shall not be valid unless it is either—

(*a.*) Specially authorized by Act of Parliament; or

(*b.*) Made to or by any Government department; or

(*c.*) Made with the consent of the Board of Agriculture.

(2) The Board of Agriculture, in giving or withholding their consent under this section, shall have regard to the same considerations, and shall, if necessary, hold the same inquiries as are directed by the Commons Act, 1876, to be taken into consideration and held by the board before forming an opinion whether an application under the Inclosure Acts shall be acceded to or not.

39 & 40 Vict. c. 56.

* * * * *

Short title.

XXIV. This Act may be cited as the Commons Act, 1899, and shall read with the Inclosure Acts, 1845 to 1882.

* * * * *

SCHEDULES. Schedule.

FIRST SCHEDULE.

*Enactments relating to Inclosures subject to restriction under the Act.* Section 22

| Session and Chapter. | Title or Short Title. |
|---|---|
| 43 Eliz. c. 2 . . | The Poor Relief Act, 1601. |
| 17 Geo. 3, c. 53 . | The Clergy Residences Repair Act, 1776. |
| 51 Geo. 3, c. 115 . | The Gifts for Churches Act, 1811. |
| 58 Geo. 3, c. 45 . | The Church Building Act, 1818. |
| 1 & 2 Will. 4, c. 42 . | The Poor Relief Act, 1831. |
| 1 & 2 Will. 4, c. 59 . | The Crown Lands Allotments Act, 1831. |
| 5 & 6 Will. 4, c. 69 . | The Union and Parish Property Act, 1835. |
| 4 & 5 Vict. c. 38 . | The Schools Sites Act, 1841. |
| 8 & 9 Vict. c. 18 . | The Lands Clauses Consolidation Act, 1845. |
| 17 & 18 Vict. c. 112. | The Literary and Scientific Institutions Act, 1854. |

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# ELEMENTARY EDUCATION (DEFECTIVE AND EPILEPTIC CHILDREN) ACT, 1899.

62 & 63 VICT. CHAP. 32.

An Act to make better provision for the Elementary Education of Defective and Epileptic Children in England and Wales. [9th August, 1899.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Power to school authority to determine what children are defective or epileptic. 56 & 57 Vict. c. 42.

I.—(1) A school authority, as defined by the Elementary Education (Blind and Deaf Children) Act, 1893, may, with the approval of the Education Department, make such arrangements as they think fit for ascertaining—

(*a.*) What children in their district, not being imbecile, and not being merely dull or backward, are defective, that is to say, what children by reason of mental or physical

Sect. 1.

defect are incapable of receiving proper benefit from the instruction in the ordinary public elementary schools, but are not incapable by reason of such defect of receiving benefit from instruction in such special classes or schools as are in this Act mentioned ; and

(*b.*) What children in their district are epileptic children, that is to say, what children, not being idiots or imbeciles, are unfit by reason of severe epilepsy to attend the ordinary public elementary schools.

(2) The school authority, in making their arrangements under this section, shall provide facilities for enabling any parent who is of opinion that his child ought to be dealt with under this Act, to present such child to the school authority to be examined, although he may not have been required so to do by that authority ; and any school authority failing to provide such facilities shall be deemed to have acted in contravention of this Act.

(3) For the purpose of ascertaining whether a child is defective or epileptic within the meaning of this section, a certificate to that effect by a duly qualified practitioner approved by the Education Department shall be required in each case. The certificate shall be in such form as may be prescribed by the Education Department.

(4) For the purpose of the exercise of the powers conferred by this section, it shall be the duty of the parent of any child who may be required by the school authority to be examined to cause the child to attend such examination, and any parent who fails to comply with such requirement shall be liable on summary conviction to a fine not exceeding five pounds.

Power to provide for education of defective and epileptic children.

II.—(1) Where a school authority have ascertained that there are in their district defective children, they may make provision for the education of such children by all or any of the following means :—

(*a.*) By classes in public elementary schools certified by the Education Department as special classes ; or

(*b.*) By boarding out, subject to the regulations of the Education Department, any such child in a house conveniently near to a certified special class or school ; or

(*c.*) By establishing schools, certified by the Education Department, for defective children.

(2) Where a school authority have ascertained that there are in their district epileptic children, they may make provision for the education of such children by establishing schools, certified by the Education Department, for epileptic children.

(3) The power conferred by this section shall include power to establish or acquire and to maintain certified schools, and to

contribute, on such terms and to such extent as may be approved by the Education Department, towards the establishment, enlargement, or alteration, and towards the maintenance of certified schools.

(4) A school authority may in respect of children resident in or whose permanent home is in their district and attending certified special classes or schools in the district of another school authority, contribute to that other authority the proportionate cost of the provision and maintenance of such special classes or schools.

(5) The school authority, acting under this section, shall make provision for the examination from time to time of any child dealt with under this section, in order to ascertain whether such child has attained such a mental and physical condition as to be fit to attend the ordinary classes of public elementary schools; and the school authority shall make provision for such examination in the case of any child whose parent claims such examination of his child, provided that the parent shall not make such claim within less than six months after his child has been examined; and any school authority failing to make such provision as this sub-section requires shall be deemed to have acted in contravention of this Act.

(6) The Education Department shall not certify any establishment established after the commencement of this Act for boarding and lodging more than fifteen defective or epileptic children in one building or comprising more than four such buildings.

Provision of guides or conveyances.

III. A school authority may provide guides or conveyances for children who, in the opinion of the school authority, are by reason of any physical or mental defect, unable to attend school without guides or conveyances.

Obligation of parent as to defective and epileptic children.

39 & 40 Vict. c. 79.

IV.—(1) The duty of a parent under section four of the Elementary Education Act, 1876, to provide elementary instruction for his child shall, in the case of a defective or epileptic child over seven years of age in any place where a certified special class or school is within reach of the child's residence, include the duty to cause the child to attend such a class or school, and a parent shall not be excused from this duty by reason only that a guide or conveyance for the child is necessary.

(2) In the case of an epileptic child whose age exceeds seven years, the school authority may, if they think fit, apply to a court of summary jurisdiction for an order requiring the child to be sent to a certified school for epileptics, and if any parent fails to comply with the order, he shall be deemed to have failed to perform the duty prescribed by section four of the Elementary Education Act, 1876, and may be proceeded against accordingly.

Sect. 5.

Conditions and effect of grant of certificate to school for defective or epileptic children.

V. The provisions of section seven of the Elementary Education (Blind and Deaf Children) Act, 1893, respecting the conditions and effect of the grant of certificates to schools for blind or deaf children shall apply, with the necessary modifications to schools for defective or epileptic children established or proposed to be established under this Act, except that no requirement need be made as to the proportion of the expenses to be defrayed out of private sources.

Powers and expenses of school authority.

56 & 57 Vict. c. 42.

VI. The provisions of section five of the Elementary Education (Blind and Deaf Children) Act, 1893 (relating to the powers and expenses of a school authority under that Act) shall apply, with the necessary modifications, to school authorities acting under this Act.

Provided that a parish in which there is a school board shall be exempt from contributing to the expenses incurred by any district council acting as a school authority under this Act, and where a school authority are an urban district council their expenses as such authority shall be paid out of the fund to be raised in the area for which they are a school authority in the same manner as the fund out of which their general expenses are payable is raised in the urban district.

Grants from public money towards education of defective and epileptic children.

VII. Nothing in any Act of Parliament shall prevent the Education Department from giving aid from the Parliamentary grant to a school in respect of education given to defective or epileptic children to such amount and on such conditions as may be directed by or in pursuance of the minutes of the Education Department in force for the time being.

Contribution by parent.

VIII.—(1) The parent of a defective or epileptic child shall be liable to contribute towards the expenses of the child incurred by a school authority under this Act in like manner and to the like extent as the parent of a blind or deaf child is liable to contribute under section nine of the Elementary Education (Blind and Deaf Children) Act, 1893, and the provisions of that section shall apply accordingly.

(2) The parent of a defective or epileptic child shall not, by reason of any payment made under this Act in respect of the child be deprived of any franchise, right, or privilege, or be subject to any disability or disqualification.

(3) Payments under this Act shall not be made on condition of a child attending any certified school other than such as may be reasonably selected by the parent, nor refused because the child attends or does not attend any particular certified school.

Contribution by guardians of the poor.

IX. The board of guardians of any poor law union may contribute such of the expenses of providing, enlarging, or

maintaining any certified special class or school under this Act as are certified by the Education Department to have been incurred wholly or partly in respect of scholars taught at the class or school who are either resident in a workhouse or in an institution to which they have been sent by the guardians from a workhouse or boarded out by the guardians. Sect. 9.

X. Nothing in this Act shall be construed as imposing a duty on a school authority to receive in a special class or school established by them any child— Limitation on liability of school authority.

(*a.*) Who is resident in, or whose permanent home in their opinion is in, the district of another school authority; or

(*b.*) Who is resident in a workhouse, or in any institution to which he has been sent by the guardians, from a workhouse, or boarded out by the guardians,

unless that other school authority or, as the case may be, the guardians are willing to contribute towards the expenses of the education and maintenance of the child such sum as may be agreed on between the authorities concerned.

XI. For the purposes of the Elementary Education Acts, 1870 to 1893, and of this Act, a defective or epileptic boy or girl shall be deemed to be a child until the age of sixteen years, and the period of compulsory education shall, in the case of such a child, extend to sixteen years, and the attendance of such a child at school may be enforced as if it were required by byelaws made under the Elementary Education Acts, 1870 to 1893, and any such child shall not, in accordance with such byelaws, be entitled to total or partial exemption from the obligation to attend school. Period of education for defective and epileptic children.

XII. The provisions regulating religious instruction in certified schools for defective and epileptic children shall be the same as those enacted by section eight of the Elementary Education (Blind and Deaf Children) Act, 1893. Religious instruction. 56 & 57 Vict. c. 42.

XIII. Every school authority shall make to the Education Department such returns as the department may require; and the department shall annually lay before both Houses of Parliament a report of their proceedings under this Act during the preceding year, and in that report shall give lists of the schools and classes to which they have granted or refused certificates under this Act during the year, with their reasons for each such refusal. Report to Parliament.

XIV. In this Act— Interpretation of terms.

The expression "school" includes any institution in which defective or epileptic children are boarded or lodged as

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well as taught, and any establishment for boarding or lodging children taught in a certified special class or school:

Other expressions have, unless the contrary intention appears, the same meaning as in the Elementary Education (Blind and Deaf Children) Act, 1893.

Short title.

XV. This Act may be cited as the Elementary Education (Defective and Epileptic Children) Act, 1899, and may be cited with the Elementary Education Acts, 1870 to 1893.

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# POOR LAW ACT, 1899.

62 & 63 VICT. CHAP. 37.

An Act to amend Section One of the Poor Law Act, 1889, and Section Four of the Pauper Inmates Discharge and Regulation Act, 1871. [9th August, 1899.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Control of guardians over orphans and children of persons unfit to have control of them.

I. For sub-sections one, two, and four of section one of the Poor Law Act, 1889 (which sub-sections are hereby repealed), shall be substituted the following sub-sections:—

"(1) Where a child is maintained by the guardians of a poor law union and—

"(i.) The child has been deserted by its parent; or

52 & 53 Vict. c. 56.

"(ii.) The guardians are of opinion that by reason of mental deficiency, or of vicious habits or mode of life, a parent of the child is unfit to have the control of it; or

61 & 62 Vict. c. 60.

"(iii.) A parent is unable to perform his or her parental duties by reason of being under sentence of penal servitude or of being detained under the Inebriates Act, 1898; or

"(iv.) A parent of the child has been sentenced to imprisonment in respect of any offence against any of his or her children; or

"(v.) A parent of the child is permanently bedridden or disabled, and is the inmate of a workhouse, and consents to the resolution herein-after mentioned; or

"(vi.) Both the parents, or in the case of an illegitimate child the mother of the child, are or is dead;

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the guardians may at any time resolve that until the child reaches the age of eighteen years all the rights and powers of such parent as aforesaid, or if both parents are dead of the parents, in respect of the child shall, subject as in this Act mentioned, vest in the guardians, and thereupon those rights and powers shall so vest accordingly, and shall continue so vested whether the child does or does not continue to be maintained by the guardians.

"Provided that the guardians may rescind the resolution if they think that it will be for the benefit of the child that it should be rescinded, or may permit the child to be, either permanently or temporarily, under the control of the parent, or of any other relative, or of any friend, or of any society or institution for the care of children.

"(2) A court of summary jurisdiction, if satisfied on complaint made by a parent or if there is no parent by the guardian of a child that there was no ground for the resolution, or that it is for the benefit of the child that it should be either permanently or temporarily under the control of its parent or guardian, or that the resolution of the guardians should be determined, may make an order accordingly, and the guardians shall comply with any such order, and if the order determines the resolution the resolution shall be thereby determined as from the date of the order, and the guardians shall cease to have the rights and powers of the parent as respects the child."

Penalty on assisting children to escape from control of guardians, &c.

II. If any person—

(*a.*) Knowingly assists, directly or indirectly, a child who has, in pursuance of section one of the Poor Law Act, 1889, or in pursuance of this Act, been placed under the control of guardians, to leave, without the consent of the guardians, the place where the child is under that control; or

(*b.*) Knowingly induces, directly or indirectly, any such child so to leave that place; or

(*c.*) Knowingly harbours or conceals a child who has so left that place, or prevents him from returning to that place,

he shall be liable on summary conviction to a fine not exceeding twenty pounds.

Provision as to adopted children.

III. In the case of any child who is deemed to be maintained by the guardians of a poor law union within the meaning of sub-section three of section one of the Poor Law Act, 1889, and who is with their consent adopted by any person, the guardians shall during a period of three years from the date of such adoption, cause the child to be visited at least twice in

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each year by some competent person appointed by them for the purpose, who shall report to them on such visit. The guardians may, if they think fit, at any time during such period, revoke their consent to the adoption, and thereupon the child shall be forthwith returned to them by the person having the custody of the same.

Extension of power to detain paupers for limited periods.
34 & 35 Vict. c. 108.

IV. Section four of the Pauper Inmates Discharge and Regulation Act, 1871, shall be amended by inserting after the words "seventy-two hours" the following words:—

"4. If he has, in the opinion of the guardians, discharged himself frequently without sufficient reason, one hundred and sixty-eight hours";

and by inserting as an additional proviso at the end of the section the following words:—

"(4) That a direction requiring a longer notice than seventy-two hours to be given must be entered in the minutes, and must specify the name or names of the pauper or paupers to whom it applies."

Short title.

V. This Act may be cited as the Poor Law Act, 1899.

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# DISTRICT COUNCILLORS AND GUARDIANS (TERM OF OFFICE) ACT, 1900.

63 & 64 VICT. CHAP. 16.

An Act to make further provision for the Term of Office of District Councillors and Guardians. [10th July, 1900.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Power to rescind orders as to retirement of district councillors or guardians.
56 & 57 Vict. c. 73.

I.—(1) Where, in pursuance of the Local Government Act, 1894, on such application or request as in that Act is mentioned, an order or direction has been or hereafter may be made or given by the council of a county or county borough, or a joint committee of any such councils, as the case may be, with respect to the retirement of members of an urban or rural district council, or of a board of guardians, the council or joint committee may, on the like application or request, by order rescind such first-mentioned order or direction.

Sect. 1. Note. Sub-s. (1).

The provisions as to application or request for an order determining the periodical retirement of guardians are contained in sect. 20 (6) of the Local Government Act, 1894.

(2) Every order made in pursuance of this section shall provide for all matters necessary or proper for carrying into effect the objects of the said order; and, in particular, shall require all the councillors or guardians in office at the date thereof to go out of office, and their places to be filled by the newly-elected councillors or guardians, on the fifteenth day of April next following that date. Sect. 1.

(3) Where an order, made in pursuance of this section, rescinds an order made in pursuance of sub-section three of section sixty of the Local Government Act, 1894, the proviso to that sub-section shall apply as if the first-mentioned order were made under the said sub-section.

II. This Act may be cited as the District Councillors and Guardians (Term of Office) Act, 1900. Short title.

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# POOR REMOVAL ACT, 1900.

63 & 64 VICT. CHAP. 23.

An Act to amend the Law relating to the Removal of Paupers from England to Ireland. [30th July, 1900.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

I.—(1) A person who has resided continuously for five years in England shall not thereafter be removable to Ireland under the Acts relating to the relief of the poor. Restriction on removal of paupers from England to Ireland.

(2) In cases where under the Acts relating to the relief of the poor a pauper is removable from England to Ireland, boards of guardians may make and give effect to agreements that the pauper, instead of being removed, shall be maintained by the board of guardians of the poor law union from which he is removable at the expense of the board of guardians of the union to which, if removed, he would be chargeable; and such agreements may be entered into whether application for a warrant of removal has been made or not.

II. This Act may be cited as the Poor Removal Act, 1900. Short title.

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The statutes regulating the removal of Irish paupers becoming chargeable in England are the Poor Removal Act, 1845 (8 & 9 Vict. c. 117); and the Poor Removal (No. 2) Act, 1861 (24 & 25 Vict. c. 76). Sect. 1. Note.

# MEMBERS OF LOCAL AUTHORITIES RELIEF ACT, 1900.

63 & 64 VICT. CHAP. 46.

An Act to relieve Members of County Councils and other Local Authorities from disqualification by reason of absence in certain cases. [6th August, 1900.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

I. This Act may be cited as the Members of Local Authorities Relief Act, 1900.

Relief from disqualification by reason of absence in certain cases.
45 & 46 Vict. c. 50.
51 & 52 Vict. c. 41.
56 & 57 Vict. c. 73.
61 & 62 Vict. c. 37.

II. Notwithstanding anything contained in the Municipal Corporations Act, 1882, or in the Local Government Acts, 1888 and 1894, or in the Local Government (Ireland) Act, 1898, or in any Order in Council thereunder, an officer or soldier of the auxiliary forces or of the reserve forces on active service, or on service beyond the seas, shall not by reason only of his absence on that service be disqualified or vacate his office as a member of any county or borough or district or parish council, or board of guardians, or incur any fine or other liability.

Interpretation.
44 & 45 Vict. c. 58.

III. In this Act the expressions "soldier," "reserve forces," "auxiliary forces," "active service," and "beyond the seas," have the meanings respectively assigned to them by the Army Act.

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Sect. 2. Note.

By the Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 46 (6), "If a member of a council of a parish, or of a district council other than a borough, or of a board of guardians, is absent from meetings of the council or board for more than six months consecutively, except in case of illness or for some reason approved by the council or board, his office shall on the expiration of those months become vacant." A similar provision relating to councillors of a borough is contained in the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 39, and applied to county councillors by sect. 75 of the Local Government Act, 1888 (51 & 52 Vict. c. 41).

Sect. 3. Note.

The definitions of these expressions will be found in sects. 189, 190 of the Army Act, 1881 (44 & 45 Vict. c. 58), *ante*, pp. 1557, 1558.

# ELEMENTARY EDUCATION ACT, 1900.

## 63 & 64 VICT. CHAP. 53.

An Act to amend the Elementary Education Acts, 1870 to 1893. [8th August, 1900.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows :

Calculation of average attendance. 54 & 55 Vict. c. 56.

I. For the purpose of the fee grant under the Elementary Education Act, 1891, average attendance shall be calculated in accordance with the minutes of the Board of Education in force for the time being in respect to public elementary schools.

Power of guardians to contribute to expenses of public elementary school.

II. The board of guardians of any poor law union may contribute towards such of the expenses of providing, enlarging, or maintaining any public elementary school as are certified by the Board of Education to have been incurred wholly or partly in respect of scholars taught at the school, who are either resident in a workhouse or in an institution to which they have been sent by the guardians from a workhouse, or boarded out by the guardians.

Expenses of blind and deaf children. 56 & 57 Vict. c. 42.

III. A parish in which there is a school board shall be exempt from contributing to the expenses incurred by any district council acting as a school authority under the Elementary Education (Blind and Deaf Children) Act, 1893, and where the school authority are an urban district council their expenses as such authority shall be paid out of a fund to be raised in the area for which they are the school authority, in the same manner as the fund out of which their general expenses are payable is raised in the urban district.

Expenses of children in industrial schools.

IV.—(1) Where a child is committed to a certified industrial school, at the instance of a school board or other local authority within the meaning of the Elementary Education Acts, 1870 to 1893, the authority may pay the expenses of and incidental to the conveyance of the child to and from the school, and the sending of the child out on licence or bringing back the child on the expiration or revocation of a licence.

(2) Where any such local authority have contributed to the support of a child in an industrial school they may contribute to the ultimate disposal of the child.

Accounts relating to joint industrial schools.

V. Where two or more school boards combine for the establishment of a joint industrial school under a joint body of

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managers, the enactments relating to the audit of school board accounts shall apply as if the joint body of managers were a school board.

Bye-laws for compulsory attendance.

VI.—(1) In section seventy-four of the Elementary Education Act, 1870, and in section four of the Elementary Education Act, 1880 (which relates to byelaws for the attendance of children at school), fourteen years shall be substituted for thirteen years.

(2) The maximum penalty for the breach of a bye-law requiring the attendance of a child at an elementary school, or of an attendance order made under the Elementary Education Act, 1876, shall be twenty shillings, and accordingly twenty shillings shall be substituted for five shillings in section seventy-four of the Elementary Education Act, 1870, and in section twelve of the Elementary Education Act, 1876.

33 & 34 Vict. c. 75.

(3) The said section seventy-four shall have effect as if the sanction therein referred to were the sanction of the Board of Education instead of the sanction of Her Majesty in Council.

Amendment of 39 & 40 Vict. c. 79, as to standard of attendances.

VII. In paragraph two of the first schedule to the Elementary Education Act, 1876 (which relates to the standard of previous due attendance at a certified efficient school), three hundred and fifty shall be substituted for two hundred and fifty.

Repeal.

VIII. The Acts mentioned in the schedule to this Act are hereby repealed to the extent specified in the third column of that schedule.

Short title.

IX. This Act may be cited as the Elementary Education Act, 1900, and may be cited with the Elementary Education Acts, 1870 to 1893.

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SCHEDULE.

*Enactments Repealed.*

| Session and Chapter. | Short Title. | Extent of Repeal. |
|---|---|---|
| 54 & 55 Vict. c. 56. | The Elementary Education Act, 1891. | Section ten, from "and the expression" to the end of the section. |
| 56 & 57 Vict. c. 42. | The Elementary Education (Blind and Deaf Children) Act, 1893. | Section four, from "and until" to the end of the section.<br>Section five, from "or where the school authority" to "value of each parish." |

# AGRICULTURAL RATES ACT, 1896, &c., CONTINUANCE ACT, 1901.

1 EDW. 7, CHAP. 13.

An Act to continue the Agricultural Rates Act, 1896, the Tithe Rent-charge (Rates) Act, 1899, the Agricultural Rates, Congested Districts, and Burgh Land Tax Relief (Scotland) Act, 1896, and the Local Taxation Account (Scotland) Act, 1898. [17th August, 1901.

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:

Continuance of 59 & 60 Vict. c. 16; 62 & 63 Vict. c. 17.

I.—(1) The period of the continuance of the Agricultural Rates Act, 1896, is hereby extended until the thirty-first day of March one thousand nine hundred and six, both for the purposes of that Act and for the purposes of the Tithe Rent-charge (Rates) Act, 1899.

(2) The words "that is to say, the period of five years after the thirty-first day of March next after the passing of this Act" in section one of the Agricultural Rates Act, 1896, are hereby repealed.

Continuance of 59 & 60 Vict. c. 37; 61 & 62 Vict. c. 56.

II. The period of the continuance of the Agricultural Rates, Congested Districts, and Burgh Land Tax Relief (Scotland) Act, 1896, is hereby extended until the thirty-first day of March one thousand nine hundred and six, both for the purposes of that Act and for the purposes of the Local Taxation Account (Scotland) Act, 1898.

Short title.

III. This Act may be cited as the Agricultural Rates Act, 1896, &c., Continuance Act, 1901.

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# BIRTHS AND DEATHS REGISTRATION ACT, 1901.

1 EDW. 7, CHAP. 26.

An Act to amend the Law with respect to Districts for registration purposes and the appointment of Superintendent Registrars of Births and Deaths in certain Unions. [17th August, 1901.]

[This Act was passed after Vols. I. and II. of this edition were printed and published, and consequently it was not possible to note in the amended Acts the amendments introduced by this Act.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

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Superintendent registrars of "temporary districts."

6 & 7 Will. 4, c. 86.

I.—(1) Section seven of the Births and Deaths Registration Act, 1836, shall apply to every poor law union however constituted and to the guardians thereof.

Provided that nothing in this Act shall affect the tenure of office of any person who is a registrar or superintendent registrar at the passing of this Act.

(2) Section seven of the Births and Deaths Registration Act, 1836, shall be read and have effect as if for the words "each union" the words "such union" were substituted.

(3) The enactments mentioned in the schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule.

Short title.

II.—This Act may be cited as the Births and Deaths Registration Act, 1901, and the Births and Deaths Registration Acts, 1836 to 1874, and this Act may be cited together as the Births and Deaths Registration Acts, 1836 to 1901.

SCHEDULE.

*Enactments Repealed.*

| Session and Chapter. | Short Title. | Enactments Repealed. |
|---|---|---|
| 6 & 7 Will. 4, c. 86 | The Births and Deaths Registration Act, 1836. | In section seven, the words from "declared under" to "and Wales," and the words "under the provisions of the last-named Act," and the words from "on or before the first day of October" to "not have been established before the passing of this Act." Sections ten and eleven. |
| 31 & 32 Vict. c. 122 | The Poor Law Amendment Act, 1868. | Section twenty-six. |
| 37 & 38 Vict. c. 88 | The Births and Deaths Registration Act, 1874. | In section twenty-two, the words "and to a temporary superintendent registrar's district," and the words "and to a superintendent registrar's district which is not temporary." |

Sect. 1. Note.

Section 7 of the Births and Deaths Registration Act, 1836, provided only for formation of districts, and the appointment of registrars and superintendent registrars in unions or parishes for which boards of guardians were established under the provisions of the Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76). The effect of this Act is to extend the provisions of that section to all unions or places for which there is a board of guardians however established.

***This Act was omitted in error from its proper place in Vol. II.***

# DISTRESS FOR RATES ACT, 1849.

## 12 & 13 VICT. CHAP. 14.

An Act to enable overseers of the Poor and Surveyors of the Highways to recover the Costs of distraining for Rates.

[11th May, 1849.]

[Preamble recited that whereas provision was already made by law for recovery of poor and highway rates by distress and sale of the goods of the person liable to pay such rates, and in default of distress by commitment, but that no provision was made for levying the costs and expenses incurred by the overseers or surveyors of highways in the recovery of the same.]

Costs of obtaining warrant of distress for poor rate.

[I.] It shall be lawful hereafter for all justices of the peace, if in their discretion they shall so think fit, in any warrant of distress they shall make and issue for the levying of any sum

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Note

The levying of poor rates by distress is authorized by the Poor Relief Act, 1601 (43 Eliz. c. 2), s. 2.

By the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 31, in all cases where a warrant of distress is issued for the recovery of a poor rate the person against whom the same is issued shall be liable to pay the costs of such warrant, and of the broker or other officer for his attendance to make the levy, although such person may tender the amount of the rate before any levy is made.

An appeal will not lie against the issue of a distress warrant for poor rate before the distress has been levied (*Reg.* v. *London JJ.*, [1899] 1 Q. B. 532).

The party applying for the warrant is the person to whom the costs of such application are to be paid (*Walsh* v. *Southworth*, 5 Exch. 50; 20 L. J. M. C. 165; 15 J. P. 452).

It was held, in 1887, that justices sitting to hear an application for the issue of a distress warrant for the recovery of a sewers rate were a court of summary jurisdiction to the extent at all events that they could state a case on a matter of law arising upon the application, and that stating a case was not part of the procedure for the recovery of a rate within the meaning of sect. 10 of the Summary Jurisdiction Act, 1884 (*Reg.* v. *London, Lord Mayor, &c., of*, 57 L. T. 491; 52 J. P. 70). And this decision was in 1892 extended to the case of an application for a distress warrant for recovery of a poor rate (*Fourth City Mutual Building Society* v. *East Ham*, [1892] 1 Q. B. 661; 56 J. P. 440).

Inasmuch as the proceedings before the justices to enforce payment of a poor rate may end in imprisonment of the person in default, the judgment of the High Court upon a case stated by justices on an application to enforce payment of a poor rate by warrant of distress is a judgment in a criminal cause or matter within sect. 47 of the Judicature Act, 1873, and therefore an appeal will not lie to the Court of Appeal from the judgment of the High Court on such a case (*Seaman* v. *Burley*, [1896] 2 Q. B. 344; 65 L. J. M. C. 208; 75 L. T. 91; 45 W. R. 1; 60 J. P. 772).

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or sums to which any person or persons is or are now or may hereafter be rated or assessed in or by any rate or assessment for the relief of the poor, or for the highways, in England or Wales, or in or by any other rate or assessment which by law now or hereafter is or shall be directed to be enforced or recovered in the same manner as a poor rate, or in any warrant for the levying of any arrears of the same, to order that a sum, such as they may deem reasonable, for the costs and expenses which such overseers or surveyors, or the persons applying for such warrant, shall have incurred in obtaining the same, shall also be levied of the goods and chattels of the person or persons against whom such warrant shall be granted, together with the reasonable charges of the taking, keeping, and selling of the said distress.

In default of distress for non-payment of rates, justices may issue warrant of commitment.

II. [*Recital and repeal of so much of* 43 *Eliz. c.* 2, *s.* 2, *as relates to commitments for non-payment of rates or for default of distress.*] . . . when to any warrant of distress for the levying of any sum or sums to which any person or persons may hereafter be rated or assessed in or by any rate or assessment hereinbefore mentioned it shall be returned by the constable or person having the execution of such warrant that he could find no goods or chattels, or no sufficient goods or chattels, whereon to levy such sum or sums, together with the costs of or occasioned by the levying of the same, it shall be lawful for any two or more justices of the peace before whom the same shall be returned, or for any two or more justices of the peace for the same county, riding, division, liberty, city, borough, or place, if in their discretion they shall so think fit, to issue their warrant of commitment against the person with relation to whom such return shall be so made as aforesaid, in the form (D.) in the schedule to this Act annexed, or in any form to the like effect, and thereby order such person to be imprisoned in the common gaol or house of correction for any

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Sect. 2. Note.

Nothing in the Summary Jurisdiction Acts, 1879 and 1884, and the Interpretation Act, 1889, has the effect of superseding the remedy, viz., by distress and imprisonment in default of a sufficient distress, for the recovery of the poor rate or of rates recoverable in the same manner as the poor rate (*Re Allen*, [1894] 2 Q. B. 924; 63 L. J. M. C. 267; 43 W. R. 141; 59 J. P. 229, following *Reg.* v. *Price*, 5 Q. B. D. 300; 49 L. J. M. C. 49; 42 L. T. 439; 44 J. P. 315; and see *Sweetman* v. *Guest*, L. R. 3 Q. B. 262; 37 L. J. M. C. 59).

A married woman, owner of small tenements, who has made an agreement with the overseers to be rated in respect thereof, upon allowance of a commission, under 32 & 33 Vict. c. 41, ss. 3, 4, and who has been accordingly so rated, does not thereby enter into a "contract" with the overseers in respect of the rates, so as to bring the case within sect. 1 of the Married Women's Property Act, 1882, and is therefore liable to the ordinary remedies for the recovery of poor rates, viz., by distress and imprisonment in default of a sufficient distress (*Re Allen*, *supra*).

time not exceeding three calendar months, unless the sum or sums therein mentioned shall be sooner paid; and every such warrant of commitment made or issued for default of distress as aforesaid shall be made as well for the non-payment of the costs and expenses so as aforesaid incurred in obtaining such warrant of distress, if the same shall be so ordered as aforesaid, and the costs attending the said distress, and also the costs and charges of taking and conveying the party to prison (the amount of such several costs, expenses, and charges being stated in such warrant of commitment), as for the non-payment of the sum or sums alleged to be due for the said rates respectively. Sect. 2.

One warrant of distress may be issued against any number of persons.

III. For the saving of expense in the levying of any sum or sums for rate and costs as aforesaid it shall be lawful to make and issue one warrant of distress against any number of persons neglecting or refusing to pay the same, in the form in the schedule to this Act annexed; but nothing herein shall be deemed or construed to authorize justices in like manner to grant or issue one warrant of commitment against several persons in default of distress as aforesaid.

To whom warrants shall be directed.

IV. The warrants aforesaid may be directed to the churchwardens and overseers of the poor, or the overseers of the poor, or the surveyors of the highways, respectively, and to the constable of the parish or township, and to any other person or persons, or to any more or one of them, as by the justices granting the same shall be deemed fit.

Summons for non-payment of rate.

V. Every summons to be issued against any person for non-payment of any sum for which he or she is or shall be so rated or assessed as aforesaid shall be directed to such person, and may be in the form (B.) in the schedule to this Act annexed, or in any form to the like effect; and the same may be served by any churchwarden or overseer of the poor, or surveyor of the highways, respectively, or constable or other person, to

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Sect. 3. Note.

Conversely, a distress warrant may issue against any one of a number of tenants in common for the whole of the amount which such tenants refuse to pay (*Reg.* v. *Paynter*, 10 Q. B. 908; 16 L. J. M. C. 136; 11 Jur. 973).

Sect. 4. Note.

The overseer of a parish or township may execute by deputy a warrant to levy a rate by distress, such an act being purely of a ministerial character (*Walsh* v. *Southworth*, 5 Exch. 150; 20 L. J. M. C. 165; 15 J. P. 452; and see *Lee* v. *Vessey*, 1 H. & C. 90; 25 L. J. Ex. 271).

Sect. 5. Note.

By the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 39, provision is made for the service of the summons when the place of abode of the person assessed is not known and cannot be ascertained on inquiry at the premises; and by sect. 40 provision is made for service of the summons on a corporation or company.

Sect. 5.

whom it shall be delivered for that purpose, upon the person to whom it is so directed, by delivering the same to the party personally, or by leaving the same with some person for him or at his or her last place of abode; and the person who shall serve the same in manner aforesaid shall attend at the time and place and before the justices in the said summons mentioned, to depose, if necessary, to the service of the said summons; and if upon the day and at the place appointed in and by the said summons for the appearance of the party so summoned such party shall fail to appear accordingly in obedience to such summons, then and in every such case, if it be proved upon oath or affirmation to the justices then present that such summons was duly served as aforesaid a reasonable time before the time so appointed for his or her appearance as aforesaid, it shall be lawful for such justices of the peace, in their discretion, if they shall so think fit, to proceed *ex parte*, in the same manner, to all intents and purposes, as if such party had personally appeared before them in obedience to the said summons.

On payment of rate and costs, proceedings to cease.

VI. In all cases where any proceedings shall be taken to compel payment of any sum for which any such person shall be so rated or assessed as aforesaid, if at any time before such person shall be committed to and lodged in prison for non-payment thereof, or for or by reason of its being returned to such warrant of distress as aforesaid that there are no goods or chattels or no sufficient goods or chattels of such person whereon the same may be levied as aforesaid, such person shall pay or tender to the churchwardens or overseers of the poor, or any of them, or to the surveyors of highways, respectively, or other person authorized to collect or receive such rate, the sum so sought to be recovered, together with the amount of all costs and expenses up to that time incurred in the proceedings so taken to compel payment thereof as aforesaid, then and in every such case the person to whom such sum and costs shall be so paid or tendered shall receive the same, and thereupon no further proceedings for the recovery of the same shall be had or taken.

[Sect. 7. Repealed by the S. L. R. Act, 1875.]

Forms in schedule valid.

VIII. The forms in the schedule to this Act contained, or forms to the same or the like effect, shall be deemed good, valid, and sufficient in law.

[Sect. 9. Repealed by the S. J. Act, 1884 (47 & 48 Vict. c. 43), s. 4.]

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Sect. 6. Note.

A tender of the rate, without the costs, is of no avail (*Walsh* v. *Southworth*, 5 Exch. 150; 20 L. J. M. C. 165; 15 J. P. 452), but where an order being made for payment of poor rate and costs, the party tendered the rate without the costs, it was *held* that a subsequent warrant of distress for the rate was illegal (*Cotton* v. *Cadwell*, 2 N. & M. 399).

SCHEDULE.

Schedule.

[In respect of poor rates in rural parishes, the words "churchwardens and" will be struck out wherever they occur in these forms. See Local Government Act, 1894, s. 5 (2) (b).]

(A. 1.)

*Complaint of the Overseers or Surveyors against one Ratepayer.*

to wit. } BE it remembered, that on the day of , in the year of our Lord , the [churchwardens and overseers of the poor, *or* the surveyors of the highways] of the parish of , in the county of aforesaid, by C. D., one of the said [overseers *or* surveyors], complain to the undersigned, [*one*] of Her Majesty's justices of the peace in and for the said [*county*], that A. B., of the said [*parish*], being a person duly rated and assessed to [the relief of the poor, *or* the maintenance of the highways] of the said parish, in and by a rate* made on the day of , in the year , in the sum of , hath not paid the same or any part thereof, but hath refused so to do: Wherefore the said [churchwardens and overseers *or* surveyors], by C. D. aforesaid, pray that the said A. B. may be summoned to appear before two of Her Majesty's justices of the peace, to show cause why he hath not paid and refuses to pay the said sum.

C. D.

Made and exhibited before me , at , in the county of , on this day of , 1849.
E. F.

* *Or*, in and by several rates made on and on , in the several sums of , and of .

(A. 2.)

*Complaint against several Ratepayers.*

to wit. } BE it remembered, that on the day of , in the year of our Lord , the [churchwardens and overseers of the poor, *or* the surveyors of the highways] of the parish of , in the [*county*] of aforesaid, by C. D., one of the said [overseers *or* surveyors], complain to the undersigned, [*one*] of Her Majesty's justices of the peace in and for the said [*county*], that the several persons whose names are mentioned and set out in the schedule hereunder written, being persons duly rated and assessed to [the relief of the poor, *or* the maintenance of the highways] of the said parish, in and by the rates in the said schedule mentioned, in certain sums set down opposite to their respective names in

Schedule.

the said schedule, have not respectively paid the said sums or any part thereof, but have respectively refused so to do: Wherefore the said [churchwardens and overseers, *or* surveyors], by C. D. aforesaid, pray that said several persons may respectively be summoned to appear before two of Her Majesty's justices of the peace, to show cause respectively why they have not paid and refuse to pay the said sums respectively.

SCHEDULE.

| Names of the ratepayers. | Residence. | Under rate dated the , 1849. | Arrears due under rate dated the , 1848. | Total sum due. |
|---|---|---|---|---|
| | | £ s. d. | £ s. d. | £ s. d. |
| A. B. . . | (here state it) | 1 7 0 | 1 7 0 | 2 14 0 |
| I. K. . . | . . . | 0 13 0 | — | 0 13 0 |
| L. M. . . | . . . | — | 0 18 6 | 0 18 6 |
| N. P. . . | . . . | 0 14 3 | 0 14 3 | 1 8 6 |

C. D.

Made and exhibited before me, , at , in the county of , on this day of , 1849.
E. F.

Section 5.

(B.)

*Summons upon the Complaint.*

To A. B., of

WHEREAS complaint hath this day been made before the undersigned, [*one*] of Her Majesty's justices of the peace in and for the [*county*] of , by the [churchwardens and overseers of the poor, *or* surveyors of the highways] of the parish of , in the said [*county*], that you, being a person duly rated and assessed to [the relief of the poor, *or* the maintenance of the highways] of the said parish, in and by a rate made on the day of , 1849, in the sum of , hath not paid the same or any part thereof, but hath refused so to do: These are therefore to command you, in Her Majesty's name, to be and appear on , at o'clock in the forenoon, at , before such two or more justices of the peace for the said [*county*] as may then be there, to show cause why you have not paid and refuse to pay the same, otherwise you shall be proceeded against by default as if you had appeared, and be dealt with according to law.

Given under my hand and seal, this day of , in the year of our Lord , at , in the [*county*] aforesaid.

E. F.

Schedule.

Take notice, that you have already incurred the undermentioned costs; viz.

| | s. | d. |
|---|---|---|
| Clerk to the justices . . . . . | | |
| Overseer [*or* surveyor], for obtaining the summons . | | |
| Constable, for serving do. . . . . | 1 | 0 |
| Ditto, travelling expenses at threepence per mile . | | |
| Total . | | |

If the amount of these charges, together with the rate claimed, be paid to the overseer [*or* surveyor] before the day on which the summons is returnable, all further proceedings will be stopped.

(C. 1.)

*Warrant of Distress against One Ratepayer.*

To the overseers of the poor [*or* to the surveyors of the highways] of the parish of , in the [*county*] , and to the constable of , and to all other peace officers in the said [*county*].

WHEREAS on last past a complaint was made before E. F., one of Her Majesty's justices of the peace in and for the [*county*] of , by the [churchwardens and overseers of the poor, *or* surveyors of the highways] of the parish of , in the said [*county*], that A. B., being a person duly rated and assessed to the relief of the poor [*or* to the maintenance of highways] of the said parish, in and by a rate made on , in the sum of , had not paid the same or any part thereof, but had refused so to do; and now at this day, to wit, on , at , the parties aforesaid appear before us, the undersigned, two of Her Majesty's justices of the peace in and for the said county [*or* the said churchwardens and overseers, *or* surveyors, by C. D., one of the said overseers, *or* surveyors, appear before us, the undersigned, two of Her Majesty's justices of the peace in and for the said county, but the said A. B., although duly called, doth not appear by himself, his counsel or attorney, and it is now satisfactorily proved to us on oath that the said A. B. has been duly served with a summons in this behalf, which required him to be and appear here at this day, before such two or more justices of the peace as should now be here, to answer the said complaint, and to be further

(C. 1.)

Note.

The warrant of distress need not state that the refusal to pay was proved on oath, and a misrecital in the warrant of the date of the rate is immaterial (*Ormerod* v. *Chadwick*, 16 M. & W. 367; 16 L. J. M. C. 143; *Reg.* v. *Bidwell*, 2 C. & K. 564; 17 L. J. M. C. 99).

A warrant which does not specify the time at which the distress is to be sold is bad (*Reg.* v. *Williams*, 2 C. & K. 1001; 19 L. J. M. C. 126).

Schedule.

dealt with according to law] ; and now having heard the matter of the said complaint, and it being now duly proved to us upon oath [in the presence and hearing of the said A. B.] that an assessment for the [relief of the poor, *or* the maintenance of the highways] of the said parish of , and for other purposes chargeable thereon according to law, dated the , was duly made, allowed, and published, and that the said A. B. is therein and thereby assessed at the sum of aforesaid,* and that the said sum hath been duly demanded of the said A. B., but that he hath not paid, and hath refused and still refuses to pay the same ; and the said A. B. now not showing to us any sufficient cause for not paying the same : These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said A. B. ; and if within the space of [*five*] days after the making of such distress the said sum, and the sum of for the costs incurred by the said [churchwardens and overseers, *or* surveyors] in obtaining this warrant, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and out of the money arising by such sale you retain the said sums of and , rendering the overplus, on demand, to the said A. B., the reasonable charges of taking, keeping, and selling the said distress being first deducted ; and if no such distress can be found, that then you certify the same unto us, to the end that such further proceedings may be had herein as to the law doth appertain.

Given under our hands and seals, this day of , in the year of our Lord , at , in the [*county*] aforesaid.

E. F.
G. H.

* "And that a certain other assessment for the relief," &c., to the asterisk, if there be arrears.

Section 3.

(C. 2.)

*Warrant of Distress against several Ratepayers.*

To the overseers of the poor [*or* the surveyors of the highways] of the parish of , in the [*county*] of , and to the constables of , and to all other peace officers in the said [*county*].

WHEREAS on last past a complaint was made before E. F., one of Her Majesty's justices of the peace in and for the [*county*] of , by the [churchwardens and overseers of the poor, *or* the surveyors of the highways] of the parish of , in the said [*county*], that the several persons whose names are mentioned and set forth in the schedule hereunder written, being persons duly rated and assessed to [the relief of the poor,

*or* maintenance of the highways] of the said parish, in and by the rates in the schedule in that complaint and in this warrant underwritten, in certain sums set down opposite to their respective names in the said schedule, had not respectively paid the said sums or any part thereof, but had respectively refused so to do; and now at this day, to wit, on , at , the said [churchwardens and overseers, *or* surveyors] by C. D., one of the said overseers, *or* surveyors, and A. B., I. K., and L. M., some of the said parties in the said schedule mentioned, appear before us, the undersigned, two of Her Majesty's justices of the peace in and for the said [*county*], but the said N. P., although duly called, doth not appear by himself, his counsel or attorney, and it is now satisfactorily proved to us on oath that the said N. P. has been duly served with the summons in this behalf, which required him to be and appear here at this day, before such two or more justices of the peace as should now be here, to answer the said complaint, and to be further dealt with according to law; and now having heard the matter of the said complaint against the said several parties, and it being now duly proved to us upon oath, in the presence of the parties so appearing as aforesaid, that an assessment for [*the relief of the poor*] of the said parish of , and for other purposes chargeable therein according to law, dated the , was duly made, allowed, and published, and that the said several persons whose names are mentioned and set out in the schedule hereunder written are therein and thereby assessed at the sums set down opposite to their respective names in the said schedule, and that the said several sums have been duly demanded of them respectively, but they have not, nor hath any of them, paid the said sums or any of them, or any part thereof respectively, but they have refused and still do refuse to pay the same respectively, and have not, nor hath any of them, showed to us sufficient cause for not paying the same: These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the several persons whose names are mentioned and set out in the schedule hereunder written; and if within the space of *five* days after the making of such distresses respectively the said several sums set opposite to their respective names at which they were so rated and assessed as aforesaid, and the said several sums for costs incurred by the said [churchwardens and overseers, *or* surveyors] also set opposite to their respective names, together with the reasonable charges of taking and keeping the said distress in each case, shall not be paid, that then you do sell the goods and chattels of the party so making default so by you distrained, and out of the money arising by such sales respectively you retain the sums so set opposite to the name of each party whose goods you shall have so sold, rendering to him the overplus, the reasonable charges of taking, keeping, and selling the said distress being first deducted; and if in any of the cases mentioned in the schedule hereunder written no such distress

Schedule.

Schedule.

can be found, that then you certify the same unto us, to the end that such further proceedings may be had herein as to the law doth appertain.

SCHEDULE.

| Names of ratepayers. | Residence. | Under rate dated , 1849. | Arrears due under rate dated , 1848. | Costs. | Total. |
|---|---|---|---|---|---|
| | | £ s. d. | £ s. d. | £ s. d. | £ s. d. |
| A. B. . . | (here | 1 7 0 | 1 7 0 | 0 6 0 | 3 0 0 |
| I. K. . . | state it) | 0 13 0 | — | 0 2 0 | 0 15 0 |
| L. M. . . | . . | — | 0 18 6 | 0 3 0 | 0 1 6 |
| N. P. . . | . . | 0 14 3 | 0 14 3 | 0 5 0 | 1 13 6 |

Given under our hands and seals, this day of in the year of our Lord , at , in the [*county*] aforesaid.

E. F.
G. H.

Section 2.

(D.)

*Warrant of Commitment in default of Distress.*

To the overseers of the poor [*or* the surveyors of the highways] of the parish of , in the [*county*] of , and to the constable of , and to all other peace officers in the said [*county*], and to the keeper of the [*house of correction*] at , in the said [*county*].

WHEREAS on last past a complaint was made before E. F., esquire, one of Her Majesty's justices of the peace in and for the said [*county*] of , by the [churchwardens and overseers of the poor, *or* surveyors of the highways] of the parish of , in the said [*county*], that A. B., being a person duly rated to the [relief of the poor, *or* maintenance of the highways] of the said parish, in and by a rate made on , in the sum of , had not paid the same or any part thereof, but had refused so to do; and afterwards on , at , the parties aforesaid appeared before E. F. and G. H., esquires, two of Her Majesty's justices of the peace in and for the said county [*or* the said churchwardens and overseers, *or* surveyors, by C. D., one of the said overseers, *or* surveyors, appeared before E. F. and G. H., esquires, two of Her Majesty's justices of the peace in and for the said county, but the said A. B., although duly called, did not appear by himself, his counsel or attorney, and it was then satisfactorily proved to the said justices that the said A. B. had been duly served with the summons in that behalf, which required him to be and appear there at that day, before such two or more justices of the peace as should then be there, to answer the

Schedule.

said complaint, and to be further dealt with according to law]; and then having heard the matter of the said complaint, and it being then duly proved to the said justices upon oath [in the presence and hearing of the said A. B.] that an assessment for the [relief of the poor, *or* the maintenance of the highways] of the said parish of , dated the , was duly made allowed, and published, and that the said A. B. was therein and thereby assessed at the sum of aforesaid, and that the said sum had been duly demanded of the said A. B., but that he had not paid, and had refused and still refused to pay the same, and the said A. B. then not showing to the said E. F. and G. H. any sufficient cause for not paying the same, the said justices thereupon then issued a warrant to , commanding them to levy the said sum of , and the sum of for the costs incurred in obtaining that warrant, by distress and sale of the goods and chattels of the said A. B.: And whereas it now appears to me, the undersigned, one of Her Majesty's justices of the peace in and for the said [*county*], as well by the return of the said to the said warrant of distress as otherwise, that the said hath made diligent search for the goods and chattels of the said A. B., but that no sufficient distress whereon to levy the said sums above mentioned could be found: These are therefore to command you, the said [churchwardens and overseers, *or* surveyors] and constable and peace officers, or some or one of you, to take the said A. B., and him safely to convey to the [*house of correction*] at aforesaid, and there deliver him to the said keeper, together with this precept: and I do hereby command you, the said keeper of the said [*house of correction*], to receive the said A. B. into your custody in the said [*house of correction*], there to imprison him for the space of , unless the said sums of and , together with the sum of for the cost attending the said distress, and the further sum of , being the costs and charges of this commitment, and of taking and conveying the said A. B. to prison, making in the whole the sum of , shall be sooner paid unto you, the said keeper; and for your so doing this shall be your sufficient warrant.

Given under my hand and seal this day of , in the year of our Lord , at , in the [*county*] aforesaid.

J. S. (L.S.)

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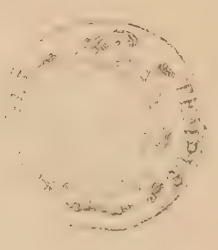

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